

1 BEFORE THE
2 LLINOIS COMMERCE COMMISSION
3 IN THE MATTER OF:)
4 COMMONWEALTH EDISON COMPANY,)
5) No. 07-0566
6 Proposed general increase in)
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8)
9 electric rates.)
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7 Chicago, Illinois
8 April 29, 2008

9 Met pursuant to notice at 9:00 a.m.

10 BEFORE:

11 MR. TERRANCE HILLIARD and MS. LESLIE HAYNES,
12 Administrative Law Judges.

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1 JUDGE HILLIARD: Let's get started.

2 (Witness sworn.)

3 MICHAEL B. MCMAHAN,

4 called as a witness herein, having been first duly

5 sworn, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY

8 MR. BERNET:

9 Q Mr. McMahan, could you please state your
10 name and spell it for the record.

11 A Michael McMahan, M-c-M-a-h-a-n.

12 Q And by whom are you employed?

13 A Commonwealth Edison.

14 Q What is your current title?

15 A Vice President of Engineering and Project
16 Management.

17 Q You have before you what's been previously
18 marked as ComEd Exhibit 5.0 Corrected, which purports
19 to be your corrected direct testimony?

20 A Correct.

21 Q And attached to that is ComEd Exhibit 5.1,
22 which is a two-page document entitled, Section

1 285.6100 Schedule F4?

2 A That's correct.

3 Q Was that document -- were those documents

4 prepared by you or under your direction?

5 A That's correct.

6 Q And to the best of your knowledge, are --

7 is the information contained in those two documents

8 true and correct?

9 A Yes.

10 Q If I were to ask you the questions that are

11 set forth in ComEd Exhibit 5 today, would your

12 answers be the same as set forth in that document?

13 A Yes.

14 Q Do you need to make any corrections or

15 modifications of that document?

16 A No.

17 MR. BERNET: With that, I move for the

18 admission of ComEd Exhibit 5.0 corrected and ComEd

19 Exhibit 5.1.

20 JUDGE HILLIARD: Objections?

21 (No response.)

22 JUDGE HILLIARD: Exhibits are admitted.

1 (Whereupon, ComEd Exhibit
2 Nos. 5.0 and 5.1 were admitted
3 into evidence.)

4 CROSS-EXAMINATION

5 BY

6 MS. LUSSON:

7 Q Good morning, Mr. McMahan, my name is Karen
8 Lusson. I'm from the Attorney General's office.

9 A Good morning.

10 Q If you could turn to Page 14 of your
11 testimony. At Line 283, you reference section
12 285.6100 of the Commission's rules, which is one of
13 the filing requirements for utilities regarding
14 additions to plants and service since the last rate
15 case; is that correct?

16 A Yes.

17 Q Now, Part B of that section of the
18 Commission's rules list a series of requirements
19 which must be filed for the top ten most costly
20 additions; is that correct?

21 A Correct.

22 Q And, in your opinion -- if you would like,

1 I could give you a copy of that Rule for reference.

2 (Tendering document.)

3 A Thank you.

4 Q In your opinion, what is your understanding
5 as to why that requirement exists that says the
6 Company must provide this information for projects or
7 capital additions of a certain dollar amount?

8 A Could you tell me where it says that
9 please.

10 Q For example, Part B, Information provided
11 for the top ten most costly additions shall include,
12 then it lists seven items.

13 What is your understanding for the
14 Commission requiring those, that information for the
15 top ten most costly additions?

16 A Well, my understanding is that that would
17 help to establish the basis for applying it to the
18 rate base.

19 Q And when you say, "applying it to the rate
20 base," meaning, help to establish a basis for
21 inclusion in rate base?

22 A That's correct.

1 Q And No. 6 of the information required in
2 this rule states that the Company must provide
3 alternatives considered and the reasons for rejecting
4 each such alternative.

5 The same question, what is your
6 understanding as to why such information is -- would
7 be required of the utility?

8 A Well, it's important that we consider
9 alternatives so that we can establish that the chosen
10 capital project was the best capital project for this
11 application and the lowest cost.

12 Q And, typically, when the Company is making
13 decisions about capital additions, is that rule of
14 practice for ComEd that they consider alternatives?

15 A Yes.

16 Q Now, if you could look at Page 10 of your
17 testimony, Line 195.

18 The question there asks:

19 "How does ComEd identify the
20 need for a major new capital
21 investment to provide new or
22 expanded service to new or

1 expanding customers?"

2 And by "expanding customers," do you
3 mean customers whose demands are expanding or need
4 for commodities expanding? What do you mean there?

5 A Well, there can be two different meanings
6 associated with that. One is an expanding customer
7 base leading to the need for additional capacity on
8 the system.

9 And then there can be just additional
10 customers individually, largely commercial industrial
11 customers.

12 Q And do they sometimes have needs for
13 additional investment from ComEd, is that basically
14 what you're referring to there?

15 A Yes.

16 Q You state that when identifying the need in
17 the answer there for a major new capital investment
18 to provide new or expanded service to newer or
19 expanding customers, the Company follows the same
20 procedures as outlined on Page 9 of your testimony
21 except that ComEd's planners also factor in the
22 specific request of the customer to identify where

1 changes in peak loads would occur; is that correct?

2 A That's correct.

3 Q Can you elaborate on why ComEd makes a
4 practice of consulting with customers when its making
5 a decision to invest in a major new capital
6 investment or expanded service to new or expanding
7 customers?

8 A Oftentimes, the capital project requires
9 land, land purchases and land siting, and so we will
10 consult with the local municipalities for the best
11 location to put that capital investment.

12 Q And is it fair to say that when you're
13 consulting with customers for their new or additional
14 electric delivery service needs that you're
15 attempting to meet their needs and make sure that the
16 investment is a wise and efficient investment for
17 both the Company and the customer?

18 A Yes.

19 Q Now, turning to Page 34 of your testimony,
20 is it correct that you indicate when you're
21 discussing the Blanket Program, which is new meters
22 and distribution overhead transformers.

1 Again, this is a program that the
2 customer is seeking rate base inclusion of; is that
3 correct?

4 A That's correct.

5 Q You indicate that this project involves the
6 purchase of new meters and transformers to replace
7 failed or obsolete meters and transformers, as well
8 as, to supply these items to customers for new
9 services or changed services.

10 And is it correct that ComEd spent
11 about 19 million on installing new meters in 2005 and
12 2006?

13 A ComEd referring to Line 729 during 2005 and
14 2006, ComEd invested approximately 19 million and 67
15 million in new meters and distribution overhead
16 transformers respectively.

17 Q And you indicate that you installed
18 approximately 186,000 new meters in this Blanket
19 Program?

20 A That's correct.

21 Q And were those primarily residential
22 meters? What kind of meters were those?

1 A Primarily residential. Residential kind of
2 overwhelms everything else.

3 Q And were they meters for new customers or
4 were they more along the lines of replacement of
5 obsolete meters or to provide new services?

6 A Most meters tend to be new services;
7 however, there is also replacement meters, as well.

8 Q And do you, by chance, know what the
9 approximate cost of each meter was or how much of
10 that 19 million went to the actual equipment meter
11 cost?

12 A No, I'm not familiar with that number.

13 Q Given your background and your position in
14 the Company, can you make any sort of guess as to how
15 much of that would be labor or would it primarily be
16 the equipment cost? Do you have any idea?

17 MR. BERNET: Are you asking on a meter-by-meter
18 basis or cumulatively?

19 MS. LUSSON: Cumulatively on the 19 million
20 number.

21 MR. BERNET: Okay.

22 THE WITNESS: No, I prefer not to guess.

1 BY MS. LUSSON:

2 Q Okay. But the 19 million, basically,
3 covered the cost of providing the meters and any
4 associated labor with that; is that correct?

5 A That's correct.

6 MS. LUSSON: Thanks, Mr. McMahan.

7 I have no further questions.

8 JUDGE HILLIARD: Any redirect?

9 MR. BERNET: No redirect.

10 JUDGE HILLIARD: Thank you, Mr. McMahan.

11 Next witness please.

12 MR. RIPPPIE: Your Honors, the Company's next
13 witness will be Mr. Terry Donnelly.

14 (Witness sworn.)

15 TERENCE R. DONNELLY,
16 called as a witness herein, having been first duly
17 sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY

20 MR. RIPPPIE:

21 Q Mr. Donnelly, since it's spelled unusually,
22 would you spell your name for reporter please.

1 A Yeah, Terence, T-e-r-e-n-c-e, R., Donnelly,
2 D-o-n-n-e-l-l-y.

3 Q Mr. Donnelly, you have before you a number
4 of documents, and I'm going to walk you through them
5 very briefly.

6 First, I would ask you to turn your
7 attention to documents that have been marked
8 Commonwealth Edison Company Exhibit 15.0 and the
9 attachments, 15.1 and 15.2.

10 Are those respectively your
11 supplemental direct testimony for submission to the
12 Commission in this case and the attachments thereto?

13 A Yes.

14 Q I would ask you to turn your attention to
15 Exhibit 21.0 corrected 21.1 and 21.2, are those
16 respectively your corrected rebuttal testimony and
17 two of the attachments thereto prepared for
18 submission to the Commission in this case?

19 A Yes.

20 Q Exhibit 21.02 is an index of voluminous
21 documents that have been prepared in DVD form and
22 submitted with the Commission.

1 Are you -- can you verify that that
2 is, in fact, the index of those documents?

3 A Yes.

4 Q If I ask you to turn your attention now to
5 Exhibit 36.0 and 36.1, are those your surrebuttal
6 testimony and attachment thereto that has been
7 prepared for submission to the Commission in this
8 document?

9 A Yes.

10 Q Were each of those documents, each of the
11 narrative testimonies, prepared by you or under your
12 direction and control?

13 A Yes.

14 Q Are there any additions or corrections you
15 wish to make to that testimony?

16 A No.

17 Q If I were to ask you the same questions
18 that appear in that narrative testimony, would you
19 give me the same answers today?

20 A Correct.

21 MR. RIPPIE: Thank you.

22 That's all the direct examination I

1 have.

2 I would offer into evidence Exhibits
3 15.0, 15.1, 15.2, 21 corrected, 21.01, 21.02, the
4 Appendix to 21, 36.0 and 36.1.

5 JUDGE HILLIARD: Any objections?

6 (No response.)

7 JUDGE HILLIARD: Hearing no objection, Exhibits
8 15.0, 15.1, 15.2, 21.0 corrected, 21.01, 21.02 -- and
9 is there an appendix?

10 MR. RIPPPIE: Yes, there is. That's the roughly
11 35,000 pages of project documentation that was
12 provided on DVD.

13 JUDGE HILLIARD: Okay. That's part of 21.02?

14 MR. RIPPPIE: It's actually labeled, your Honor,
15 21 Appendix. 21.02 is an index of it.

16 JUDGE HILLIARD: 21 Appendix, 36.0, 36.1 will be
17 admitted into evidence.

18 (Whereupon, ComEd Deposition Exhibit
19 Nos. 15.0, 15.1, 15.2, 21.0 corrected,
20 21.01, 21.02, 21 Appendix and 36.0 and
21 36.1 were marked for identification.)

22

1 JUDGE HILLIARD: Any cross-examination?
2 Who is first?
3 MS. LUSSON: Your Honor, with your permission,
4 we would like to divide our cross on a couple
5 different issues, so I will primarily have most of
6 our cross, but then we have a few questions that
7 Kristen Munsch is going to ask.
8 JUDGE HILLIARD: Okay. One questioner per
9 issue, though.
10 MS. LUSSON: Yes.
11 JUDGE HILLIARD: Okay.
12 CROSS- EXAMINATION
13 BY
14 MS. LUSSON:
15 Q Good morning, Mr. Donnelly.
16 A Good morning.
17 Q If you could turn your attention to Page 2
18 of your Supplemental Direct Testimony?
19 A Okay.
20 Q At Line 26, you state that Rider SMP offers
21 a special opportunity to begin to deploy advanced
22 technologies that can revolutionize the capabilities

1 of ComEd's distribution system and begin to provide
2 significant benefits to customers years earlier than
3 would otherwise be possible.

4 Is that your testimony?

5 A Yes.

6 Q Would you agree that Rider SMP would also,
7 if approved by the Commission, charge ratepayers
8 earlier for costs associated with new investments
9 than would be possible under traditional test year
10 regulation?

11 A Yes, it would charge customers with the
12 carrying costs for those investments.

13 Q And, as I understand that sentence, that
14 it's your view that this is a special opportunity for
15 AMI deployment, is it also true that Rider SMP
16 proposal provides the Company a special opportunity
17 to receive advanced regulatory approval to invest in
18 the SMP projects minimizing the risks that excessive
19 costs or technologies failures might later be
20 disallowed by the regulators?

21 A Correct.

22 JUDGE HILLIARD: Mr. Donnelly, pull the mike a

1 little closer to you. It would be easier for me and
2 the reporter.

3 THE WITNESS: Sure.

4 JUDGE HILLIARD: Thank you.

5 BY MS. LUSSEN:

6 Q Now, over at Line 50 of your Supplemental
7 Direct, you state that the benefits that Smart Grid
8 can provide to customers are great, but as others
9 have testified, the required investments in system
10 modernization projects like this cannot be funded by
11 normal means.

12 Is it your understanding that ComEd is
13 unable to fund Smart Grid investments at all if Rider
14 SMP is not approved?

15 A Yes, in general.

16 Q Now, were you in the room yesterday when
17 ComEd President, Mr. Mitchell, said in response to
18 that same question that he would hesitate and could
19 not say that ComEd would never invest in AMI?

20 A No, I was not in the room for Mr. Mitchell.

21 Q Okay. Would you agree that it's -- that
22 you cannot sit here today and say that ComEd would

1 never invest in AMI, SMP approval?

2 A Yeah, it would be difficult to say never.
3 There may be a particular element of a device that
4 may be implemented on the system based on a
5 reliability concern in a particular pocket, but in
6 terms of like an integrated program was mainly the
7 basis for my answer.

8 Q Okay. Is it the Company's position that
9 it's less advantageous financially to commit to AMI
10 without this special funding mechanism?

11 A I'm sorry. Could you repeat the question.

12 Q Yes.

13 Is it the Company's position that it's
14 less advantageous financially for ComEd to commit to
15 AMI without this special funding mechanism?

16 A Yes.

17 Q I want to show you what I will mark as AG
18 Cross-Exhibit 4.

19 (Whereupon, Donnelly Deposition
20 Exhibit No. 4 was marked for
21 identification.)

22 MS. LUSSON: Make that AG Cross-Exhibit 8.

1 (sic)

2 BY MS. LUSSON:

3 Q Now, this is the Company's response to an
4 AG Data Request that explains the Company's capital
5 expenditures budget development review and approval
6 process.

7 Now, are you familiar -- the response
8 from the -- the list of responses from the Company
9 indicated that Mr. Williams attested to this
10 response.

11 But now, is it correct that
12 Mr. Williams reports to you, Mr. Donnelly?

13 A No, Ms. Williams does not report to me.

14 Q Are you, in general, familiar with the
15 Company's capital expenditures budget development
16 review and approval process?

17 A Yes, in general.

18 Q Okay. At the beginning of that response
19 the Company indicates that it uses a combination of a
20 bottoms-up and top-down process to development the
21 O&M capital expenditure budget that iterative in
22 nature.

1 Can you explain what the Company means
2 by "bottoms-up" and "top-down"?

3 A "Bottoms-up" refers to a development of a
4 detailed work plan of specific work that would be
5 required or we would invest in the system.

6 So a bottoms-up type of work plan
7 development is identification of specific work to be
8 done.

9 Top-down -- your question was around
10 bottom-up?

11 Q And top-down, yes.

12 A Okay. Top-down process, you know, I defer
13 to Mr. McDonald later, our chief financial officer,
14 basically involves financial targets from a high
15 level that then get applied to the work plan.

16 Q Okay. And now, as I understand this
17 response, that that process takes several months, and
18 that it's a process where the individuals responsible
19 for putting together the capital budget and the work
20 plan are challenged essentially to see if the costs
21 can be reduced; is that correct?

22 A The iterative processes can represent a

1 challenge process, it can represent some further
2 discussions on priority, and it could mean several
3 things.

4 Q And, essentially, it's an effort to make
5 sure that, one, it's something the Company can afford
6 to do and something that has been thoroughly
7 researched and approved throughout many levels of the
8 Company; is that right?

9 A That's correct.

10 Q And then in May is when the actual
11 estimates for the 500 projects for the five-year
12 planning period is put together, and then in mid-May
13 the final capital plan is presented to the ComEd
14 president and CFO for approval?

15 A Yes, that's stated there, correct.

16 Q Then, it isn't actually until July then
17 that the actual budgeting process begins, and then it
18 goes on again further through August with an
19 additional draft of the O&M cap budgets compiled by
20 finance and reviewed with ComEd's operating
21 leadership that ultimately culminates in requests for
22 approval in December and early January of ComEd's

1 board of directors and Exelon board of directors; is
2 that right?

3 A Correct.

4 Q Now, going back to the question of SMP
5 projects, were the projects that were submitted in
6 this rate case a part of this bottoms-up, top-down
7 approach to developing a capital expenditures budget?

8 A Could you restate the question please.

9 Q Were the SMP projects that were originally
10 proposed in this rate case, did they go through this
11 nearly year-long capital expenditures bottoms-up
12 top-down process?

13 A From the programs proposed in our SMP
14 rider, they -- those particular projects were not put
15 into our work plan right now or into our capital
16 budgets at this time.

17 Q Okay. Were they ever proposed for
18 inclusion in early March of '07 at the beginning?

19 A For the SMP projects?

20 Q Yes.

21 A That were proposed in our rider
22 submissions?

1 Q Yes.

2 A No.

3 Q Now, I also want to show you the Company's
4 response to AG Data Request 6.111, which I will mark
5 as AG Cross-Exhibit 9.

6 JUDGE HAYNES: Your last one was AG Cross
7 Exhibit 4.

8 MS. LUSSON: It's 8, I'm told.

9 JUDGE HAYNES: Actually, it's 4.

10 MS. LUSSON: So this will be 5.

11 (Whereupon, AG Cross Exhibit
12 No. 5 was marked for
13 identification.)

14 BY MS. LUSSON:

15 Q Now, initially the Company was proposing
16 approval of eight SMP projects; is that right?

17 A Yes.

18 Q Now, this data request that I have handed
19 you asked whether ComEd management enacted to approve
20 each of the eight projects.

21 Now the response indicates that
22 management has approved proposing each project as an

1 SMP; is that correct?

2 A Correct.

3 Q And as I understand Ms. Clair's testimony
4 from yesterday, ComEd would have to obtain a RFP as
5 the next step after issuance of a RFI for AMI to get
6 more granular for specific cost data for the AMI cost
7 estimate; would you agree?

8 A I can't comment specifically on Ms. Clair's
9 testimony.

10 Q Okay. So you're not making any
11 representations about AMI --

12 A No.

13 Q -- cost estimates?

14 A No.

15 Q Did the Company get any sort of RFIs for
16 any of the other projects that were originally
17 proposed as SMP projects?

18 A As originally proposed, I think on mobile
19 dispatch, but that's since been removed from the SMP
20 project list.

21 Q Okay. Now, with respect to the
22 Commission's approval of any projects for inclusion

1 either of ratepayer funding in some way or rate base,
2 do you believe it's important that the Commission has
3 access to precise costs and benefit estimates in
4 order to make a binding decision on prudence finding
5 approving projects that would be charged to customers
6 through Rider SMP?

7 A I can't comment specifically on what might
8 be required in terms of a prudence finding on
9 estimates.

10 Q So you have no opinion on that, on what's
11 required for a prudence finding?

12 A No, in terms of what may be required
13 legally for a prudence finding, I'm not prepared to
14 testify to.

15 Q At Page 3, Line 53, you refer to quote:
16 "The hope that their costs will ultimately begin to
17 be recovered."

18 Do you see that reference there?

19 A Yes.

20 Q Do you think there is a significant risk
21 that ComEd could not prove the benefits and prudence
22 of its Smart Grid investments to the Commission after

1 the fact, so it's necessary to require Commission
2 approval before all the decisions are made and the
3 money's invested?

4 A Could you restate the question please.

5 Q Well, when you say that there's a hope that
6 their costs will ultimately begin to be recovered, is
7 ComEd stating that it believes there is significant
8 risks that it could not prove the prudence and
9 benefits of its Smart Grid investments to the
10 Commission after it's made the investments in terms
11 of trying to get rate base inclusions?

12 A We believe, in general, that the Smart Grid
13 project, as proposed in the SMP, represent
14 multiple-year investments in particular equipment and
15 technologies, and we believe that -- we desire that
16 to be a collaborative process, that we engage in
17 discussions upfront with the ICC and other
18 stakeholders to get feedback in terms of proceeding
19 with an particular investment that may be multiple
20 years.

21 As far as the actual controls in the
22 Rider around when we spend the money and how that's

1 then reviewed post-expenditure, that would be an
2 issue of the rider design, that Mr. Crumrine would
3 testify to.

4 Q All right. On Page 54 of your Supplemental
5 Direct you state: "If these investments are to be
6 made, and approaches required like that proposed in
7 Rider SMP where projects are presented to the
8 Commission and stakeholders and approved in advance."

9 Again, it's correct then that only
10 ComEd would be presenting to the -- projects to the
11 Commission for investment as part of Smart Grid under
12 the SMP projects; is that right?

13 A Could you reference a page number or line
14 number?

15 Q Yeah, at Line 54 of Page 3.

16 A Okay. And what is your question?

17 Q My question is, it's true that ComEd would
18 only be presenting project proposals; is that right?

19 A We would present project proposals for SMP.

20 Q No other party would be presenting
21 suggestions?

22 A We would present the proposal for

1 discussion with the ICC in advance of the investment.

2 We certainly encourage other
3 stakeholders at that time to weigh in on different
4 opinions or input.

5 Q But, ultimately, the decision is ComEd's as
6 to what to propose for the formal SMP process?

7 A Ultimately?

8 Q The decision would be ComEd's as to whether
9 it should propose it as an SMP project?

10 A The decision initially to propose projects
11 as SMP, is originated from ComEd.

12 Q And in terms of the formal proceeding, that
13 would take place after the workshop, that's ComEd's
14 decision, right, as to what it would propose?

15 A It's -- in terms of the Company making the
16 investment, it would be ComEd. We view it as a
17 collaborative process with regulators and
18 stakeholders for what work would get done.

19 Q Is it correct that -- strike that.

20 Under traditional test-year
21 regulation, would you agree that management must
22 select technology and manage investment projects and

1 then later present actual costs and completed work
2 for Commission review and approval?

3 A Yes.

4 Q To the extent that SMP differs than the
5 traditional rate base inclusion process, when
6 projects are presented, is it true that the
7 Commission might see conceptual plans in ranges of
8 estimated costs prior to vendor selection and actual
9 implementation of new technologies?

10 A The degree of information that would be
11 presented in advance for approval may vary depending
12 on the time of the actual meeting.

13 Q Would you agree that ComEd could, in its
14 discretion, elect to deploy new technologies within
15 the distribution system based upon the merits of
16 using that technology to meet customer needs or to
17 achieve operating savings, but do so at a slower pace
18 than originally proposed in this docket?

19 A I think ComEd always has the opportunity,
20 depending on the type of work to make a discretionary
21 investment, depending on its financial condition.

22 Q You would agree, wouldn't you, that there

1 is no Commission directive or statute or rule
2 requiring ComEd to invest in AMI or any other Smart
3 Grid technology at the rate that ComEd is proposing
4 in this docket, is there?

5 A I am not aware of them. Perhaps others
6 may be. I'm not aware of a directive.

7 Q Now, later in your own testimony, your
8 supplemental, you indicate that ComEd's already been
9 deploying newer technologies, such as, automatic
10 switches and reclosures, automatic line
11 reconfiguration, enhanced line-isolating control, and
12 mobile dispatch.

13 Now, were these investments that ComEd
14 has already made reasonable exercises of management
15 discretion, in your opinion?

16 A Yes.

17 Q And investments made by ComEd already in
18 new technology are being requested for inclusion in
19 the Company's rate base in this case unless some
20 disallowance adjustment is made by the Commission for
21 perceived imprudence; is that correct?

22 A Correct.

1 Q If any of these new technologies had failed
2 to work or have been determined to be imprudently
3 deployed, would you agree that the Commission might
4 have considered ratemaking adjustments to shield
5 ratepayers from unreasonable costs or risks?

6 A The questions on prudence on what the ICC
7 would do in ratemaking, I would defer to others for
8 that, as well.

9 Q Okay. I want to show you what I'll mark
10 as AG Cross-Exhibit 6 and 7.

11 (Whereupon, AG Cross Deposition
12 Exhibit Nos. 6 and 7 were
13 marked for identification.)

14 BY MS. LUSSON:

15 Q Now, these data request responses, one
16 being -- 6 being the response to IIEC Request 2.64
17 and 7 being the Company's response to AG 6.23 and
18 these data requests generally describe the timing and
19 scope of ComEd's requested prudence review for SMP
20 projects.

21 Would you agree?

22 MR. RIPPIE: Ms. Lusson, both of these data

1 requests are assigned to other witnesses, and one, in
2 fact, refers to the testimony of another witness.

3 Can we first determine whether he's
4 even seen these data responses before today?

5 MS. LUSSEN: Sure.

6 BY MS. LUSSEN:

7 Q Mr. Donnelly, have you seen these responses
8 before?

9 A No, I have not.

10 Q Looking at the question and answer, can
11 you -- are you prepared to answer any questions on
12 these responses?

13 MR. RIPPKE: Maybe I can short-circuit this.
14 Questions -- no pun intended.

15 Questions about the particulars of the
16 prudence determinations to be made under the Rider
17 are best addressed either to the Houtsma/Frank panel
18 or to Mr. Crumrine if they concern the actual wording
19 of the tariff. Mr. Crumrine --

20 MR. REDDICK: Excuse me.

21 MR. RIPPKE: Sorry. Conrad.

22 I was saying, questions with respect

1 to the prudence determination and the operations of
2 the tariff language itself are best directed to the
3 Houtsma/Frank panel or to Mr. Crumrine.

4 Mr. Donnelly is the operations, and
5 with respect to a number of the particular projects,
6 the technical witness.

7 He can certainly talk about the
8 financial and budgeting process, as he has, but I
9 think if you're going to delve into the particulars
10 of the request of the prudence findings, you will
11 find that it exceeds not only the scope of his
12 testimony, but also what he's capable of testifying
13 to.

14 MS. LUSSEN: Okay. I'll be glad to withdraw
15 them and hold them for Houtsma/Frank and Mr. Crumrine
16 probably.

17 BY MS. LUSSEN:

18 Q Mr. Donnelly, if you know, under
19 traditional regulation, would you agree that utility
20 management is responsible for investing first and
21 then later seeking cost recovery after the
22 construction work is done and actual plant

1 performance and usefulness can be examined by the
2 Commission?

3 A From an operating perspective, that's my
4 general understanding.

5 Q And do you believe that ComEd has
6 sufficient depth within its professional staff to
7 rigorously evaluate all of the implementation issues
8 associated with Smart Grid investments; such as, AMI
9 or automated distribution systems, or do you believe
10 the Company's likely to obtain subject matter experts
11 and consultants to assist its own employees in
12 evaluating the technologies and making implementation
13 decisions?

14 A We have --

15 MR. RIPPKE: I just have an objection to form.
16 It's not and either or. I mean, you presented it as
17 "does the Company have sufficient depth" or "are they
18 going to go outside." I object to form.

19 MS. LUSON: I will be happy to rephrase the
20 question.

21

22 BY MS. LUSON:

1 Q Does the Company have plans to go outside
2 and has it already gone outside to obtain additional
3 assistance for consultation on implementation and
4 evaluation of technologies that are proposed under
5 Rider SMP?

6 A We do utilize as many resources as we can
7 to evaluate any investment similar to associations
8 with EPRI, vendors come in and provide presentations
9 on options for technology.

10 We do have a variety of means we try
11 to bring in for expertise for advice to supplement
12 the depth that we have internally.

13 Q Is that just for the AMI, or would you
14 anticipate that would be happening for the other, now
15 withdrawn, SMP projects?

16 A Could you clarify the "now withdrawn."

17 Q The other besides the AMI deployment.

18 A Besides AMI deployment?

19 Q Yes.

20 A Your question is again.

21 Q Do you anticipate getting outside
22 assistance through subject matter experts and

1 consultants for implementation and consultation?

2 A It's hard to predict with certainty. We
3 will look to engage as many experts as we reasonably
4 can to provide advice on technologies.

5 Q And as I understand, that has already
6 occurred in terms of the AMI proposed implementation?

7 A I refer to Ms. Clair's testimony for that.

8 Q Would you expect that the Commission staff
9 has the same depth of professional experience and
10 expertise as exists within the Company and its hired
11 experts such that Staff would be equally capable of
12 rigorously evaluating all of the detailed
13 implementation issues associated with AMI and other
14 Smart Grid investments?

15 A Hard to provide a definitive answer there.
16 As proposed in SMP, in terms of the upfront process
17 we proposed, we believe that Staff and the
18 Commission, as well as other stakeholders, all have
19 valuable feedback and expertise in different areas
20 that would combine for us to have -- to achieve an
21 optimal solution for a plan going forward.

22 Q Turning to your Surrebuttal Testimony at

1 Page 3, Lines 50 to 52, you indicate that beneficial
2 programs and services often have costs but remain
3 very much in the public interest, and then you
4 provide examples of programs and services that you
5 state were supported by the parties who now oppose
6 Rider SMP. And you list efficiency programs,
7 renewable energy programs and safety programs.

8 Do you see that?

9 A Yes.

10 Q You would agree, wouldn't you, that the
11 provision of energy efficiency is required by state
12 statute and, indeed, the provision of demand-site
13 programs must be a part of ComEd's load forecasting
14 under existing state law?

15 A I'm not prepared to answer in terms of what
16 the particular statute requiring --

17 Q Is it your understanding -- I'm sorry.
18 I'll let you finish.

19 A No, I'm just not commenting or prepared to
20 answer whether a particular statute has a particular
21 requirement for a program.

22 Q Is it your understanding, though, that

1 ComEd is now required to provide such programs and,
2 in fact, the Commission just completed a docket
3 regarding implementation of those programs?

4 A Yeah, my understanding is, in general, we
5 are embarking on energy efficiency programs.

6 Q And would you agree that use of renewable
7 sources also is now a requirement of ComEd's load
8 planning in the state?

9 A I would just -- I'm not prepared to answer
10 whether that particular item is included in a statute
11 or a regulation.

12 Q I'm asking is it your understanding that
13 that's now a requirement for ComEd?

14 A In general, I believe there are
15 requirements in that particular area, but that's not
16 my area of expertise.

17 Q Would you agree also that the provision of
18 energy efficiency and the use of renewable energy
19 resources does not raise issues regarding the early
20 retirement of adequately functioning customer meters,
21 would you?

22 A I'm not prepared to discuss energy

1 efficiency programs or renewable energy programs.

2 Q Turn to Page 4 of your Surrebuttal
3 Testimony, Line 72 through 74.

4 Can you point to any Commission rules
5 or orders that would prevent you from doing just
6 that; that is, implementing cost-effective new
7 technologies under traditional regulation?

8 A I can't point to any particular rules that
9 the Commission may currently have.

10 Q And generally speaking in terms of the --
11 strike that.

12 At Page 4, Line 79, you mention,
13 quote: "Putting ComEd at risk of after-the-fact
14 disallowances where ComEd invests in successful
15 technologies, but then is penalized for doing so."

16 If ComEd chooses poorly on AMI or any
17 other Smart Grid technology and the technology proves
18 to not be successful, in your opinion, should ComEd
19 be insulated from any potential disallowances if the
20 Rider SMP process was followed?

21 A The details, again, on the prudence of the
22 investment in terms of the reviews, I would defer to

1 Mr. Crumrine for that.

2 As I understand it, there are upfront
3 discussions of the technology to use, and then as
4 part of the Rider annual reviews or at some period
5 visiting reviews of that particular investment.

6 Q But certainly your testimony makes
7 conclusions about the need for Rider SMP and the
8 associated risk of these significant investments.

9 Is it your opinion that Rider SMP in a
10 sense protects the Company to a certain extent from
11 any future disallowances?

12 A To some extent, I believe Rider SMP and SMP
13 does that to some degree, because we want to engage
14 in some upfront dialogue on multi-year investment to
15 improve the operation of the Grid.

16 Q And if the technology decisions made by
17 ComEd management prove to be successful, as you, I'm
18 assuming, would hope, under the Rider SMP process, on
19 what rationale basis could anyone later recommend
20 disallowances? Can you anticipate any?

21 A At this time, I do not -- what other
22 requirements that may be required in terms of a

1 prudency view, I would defer to some other witnesses
2 for that.

3 Q Under either scenario, either in
4 investment, Smart Grid investment deemed successful
5 or in the alternative, unsuccessful, would you agree
6 that ComEd management has more control and influence
7 over how technology decisions are made and
8 implemented than do ratepayers or the Commission?

9 A As the implementing utility, we have a
10 large degree of control as far as the SMP, that's why
11 we want to have some upfront discussions with the
12 variety of stakeholders around the best way to
13 proceed.

14 Q Now, Page 78, you mention requiring that
15 the Company invests hundreds of millions of dollars
16 in these technologies without first receiving
17 regulatory guidance and approval.

18 Can you point to a Commission order or
19 statute or rule that says ComEd must invest in AMI at
20 this point in time and to the degree ComEd has
21 proposed originally in this docket?

22 A Was that Line 78?

1 Q Yes.

2 A Or Page 78?

3 Q Yes.

4 A Line 78.

5 Q Yes.

6 A That's Page 4.

7 Okay. Can you restate the question

8 please.

9 Q Can you point to a Commission order or

10 statute or rule that says ComEd must invest in AMI at

11 this point in time and to the degree ComEd has

12 proposed in this docket?

13 A No, I cannot.

14 Q Would you agree, Mr. Donnelly, that ComEd

15 has been investing hundreds of millions of dollars in

16 new plant every year for many years in the normal

17 course of business?

18 A Yes.

19 Q I want to show you what I'll mark as AG

20 Cross-Exhibit?

21 JUDGE HAYNES: 8.

22 MS. LUSSON: 8.

1 (Whereupon, AG Cross Deposition
2 Exhibit No. 8 was marked for
3 identification.)
4 BY MS. LUSSON:
5 Q Now, this is schedule the Company Schedule
6 D7 that was filed as part of the standard filing
7 requirements, and if you look at this, Line 59
8 indicates that ComEd's gross construction
9 expenditures in 2006 were over 910 million; is that
10 correct?
11 A Yes, I see that number.
12 Q And can you identify any Commission order
13 that provided advance regulatory approval or guidance
14 for any of this 910 million of construction spending?
15 A At the moment, I can't point to one.
16 Whether there did exist any, Commission orders,
17 perhaps, Mr. Crumrine or some others can point to.
18 Q And are you familiar with the term
19 referenced at Line 61 "net cash flow is a percentage
20 of construction expenditures"?
21 A In general.
22 Q And can you briefly describe what that

1 means.

2 A I would defer questionings on the financial
3 report here to Witness McDonald, which I believe is
4 coming up.

5 Q Okay. Finally, if you could turn to
6 Page 11, Line 241 of your -- back on your
7 Supplemental Direct Testimony.

8 A Page 11?

9 Q Yes, Line 241.

10 You elaborate on the point regarding
11 operating efficiency noting that:

12 "Smart Grid technologies can
13 reduce certain operating and
14 maintenance expenses, although
15 typically, not be a sufficient
16 amount, at least at present, to
17 offset fully the capital costs
18 and incremental O&M expenses
19 associated with the Smart Grid
20 technology itself?"

21 What do you mean by the parenthetical
22 there that, "at least at present"?

1 A What I mean by that is in general the Smart
2 Grid is evolving in terms of quantification of
3 benefits throughout the industry, and as investments
4 increase year over year and we better understand
5 different benefits that may occur that are presently
6 not quantifiable that may occur in the future.

7 Q And so, essentially, you're talking about
8 the investment occurs, and then sometimes you have to
9 wait for the benefit to come; is that correct?

10 A Yes.

11 Q At least for the full benefit to come?
12 There may be small benefits right away, but benefits
13 may increase with time, and then may decrease again,
14 whatever? It changes, in other words?

15 A Correct.

16 Q Would you agree that in a traditional rate
17 case, all of the utilities rate base investments,
18 expenses and revenues are subject to review, so that
19 where new technology investment has produced O&M
20 savings there is a good chance that the test year
21 will reflect that the realized O&M savings at the
22 same time the new investment is included in rate base

1 and depreciation expense?

2 A Is your question specific to depreciation
3 expense?

4 Q It's specific to that whether or not the
5 test year will reflect all of the O&M savings at the
6 same time investment is being asked to be included in
7 rate base and depreciation expense?

8 A I'm not commenting specifically on
9 depreciation expense.

10 Whatever savings that may occur
11 initially, like operating savings, based on an
12 investment SMP-type of program, if there is -- those
13 savings occur in the test year, they would be
14 reflected.

15 In particular, there are times when an
16 O&M savings in one area, we may decide to perform
17 more work in another area for benefit of customers.

18 Q But I think you've indicated that test-year
19 snapshot will reflect whatever is occurring with the
20 Company in terms of O&M savings at that point in time
21 related to that rate base investment, won't it?

22 A What the details of a particular cost in

1 rate base, I'm sure others will testify to, but in
2 general, O&M expenses are reflected in a test year,
3 and savings from a particular investment if, it's
4 occurring in that test year, would be reflected in
5 the O&M costs for that year.

6 My comment was only meant to say that
7 there may be other investments that we would perform;
8 if we have savings in one area, it's possible we
9 would perform other work in another area based on the
10 savings for system betterment. It's hard to say
11 with specificity what that may be at the present
12 time.

13 Q Finally, Ms. Clair, deferred a question to
14 you. It was a question that asked whether you know
15 if anyone from ComEd will be participating in any way
16 in the NARUC FERC committee on Smart Grid that begins
17 meeting this July.

18 Do you know if anyone from ComEd will
19 be on that committee?

20 A I believe that's a committee of regulators
21 that may be involved in discussions of Smart Grid.

22 I'm not aware of our participation at

1 this time in that committee. Certainly, if the
2 opportunity presents itself, we would be very glad to
3 participate.

4 Q Okay.

5 MS. LUSSON: Thank you.

6 MS. MUNSCH: Good morning, Mr. Donnelly, I just
7 have a couple questions for you.

8 These are related to your Surrebuttal
9 Testimony at Lines 310 through 321.

10 A 310?

11 Q 310. And this is, as you just talked
12 about, in response to a question from Ms. Lusson.

13 These are where you discuss events
14 that contribute to a variance between your forecasted
15 capital additions and then the actual capital
16 additions; is that correct?

17 A Yes.

18 Q And among those events, you discuss is the
19 situation where, as you said earlier, investment in
20 some categories is lower than expected, at which
21 point the Company would reallocate those resources
22 potentially to complete other projects; is that

1 correct?

2 A Yes.

3 Q Then it is correct to say that in
4 situations where investment in some categories would
5 be higher than expected, the Company would also
6 adjust the remaining resources among those proposed
7 projects?

8 A Yes.

9 Q And then it's also correct to say, that the
10 Company when it's completed its reallocation of
11 resources that the actual capital additions could
12 vary, could be lower than the forecasted capital
13 additions?

14 A It could be lower.

15 Q Then on Lines 353 through 356 of that same
16 testimony, you discuss what you characterize, and my
17 question is: Is it fair to say that you're
18 characterizing that the Company's has provided quote
19 "an unprecedented quantity of data on the proposed
20 capital additions for the first three-quarters of
21 2008." Is that a correct characterization?

22 A Yes.

1 Q Let me show you what will be marked as, I
2 believe we are on 9 now, AG Cross-Exhibit 9.

3 JUDGE HILLIARD: Yes.

4 (Whereupon, AG Cross Exhibit
5 No. 9 was marked for
6 identification.)

7 BY MS. CHRIS CHRIS:

8 Q And this is a data response from the People
9 of State of Illinois Data Request, which I believe is
10 sponsored by -- listed in ComEd's schedule as
11 Houtsma/Frank, the question, though, is directed to
12 Mr. Donnelly's testimony in Exhibit 21, which is why
13 I was going to ask him about it now?

14 MR. RIPPIE: You, obviously, are free to ask
15 him about it. That doesn't mean that he's the right
16 witness to answer it or that he's ever seen it.

17 MS. MUNSCH: The question itself refers to
18 ComEd Exhibit 21, which is Mr. Donnelly's rebuttal
19 testimony and discusses the sources and uses of funds
20 statement showing the plant additions for the first
21 three-quarters of 2008.

22 MR. RIPPIE: Just to be clear, Mr. Donnelly

1 doesn't discuss sources and uses. You referenced a
2 piece of testimony of his and then asked another
3 question that was dealt with by other witnesses, so
4 he can answer to whatever he knows.

5 MS. KRISTIN: Sure. And we will be certain to
6 ask the other individuals, as well, but what we
7 wanted to, since he is in the operations, to discuss
8 is --

9 BY MS. KRISTIN:

10 Q Is it correct that the Company, at this
11 point, can't show the sources and uses funds for the
12 capital additions that you speak about in your
13 testimony for those first three-quarters of 2008?

14 A If you could just describe "sources and
15 uses of funds."

16 BY MS. MUNSCH:

17 Q Well, this is, I guess, what we would
18 describe as an individual project breakdown in terms
19 of your reallocation among projects, but at this time
20 you don't have an actual source per project; is that
21 correct?

22 MR. RIPPIE: This is beyond the scope of his

1 testimony. It's asking about the financing
2 activities that provide the capital.

3 He is neither the finance witness nor
4 the revenue requirement witness.

5 The fact that the data request began
6 with a reference to projects he discusses, does not
7 make this DR within the scope of his testimony.

8 JUDGE HILLIARD: You have a response?

9 MS. KRISTIN: You know, our understanding was
10 he was going to be able to testify to the projected
11 plant additions and the process that would be used to
12 discuss those additions.

13 We are asking about if at this time
14 his budgeting process and the sources, we would
15 assume would have included the sources of funds for
16 those additions.

17 JUDGE HILLIARD: Who is the appropriate witness
18 to answer this question?

19 MR. RIPPPIE: Most likely, either Houtsma/Frank
20 and/or McDonald.

21 I mean, to be clear, this witness can
22 answer questions about the budgeting process, that's

1 different than the financing process.

2 JUDGE HILLIARD: Right.

3 MS. KRISTIN: Let me rephrase the question

4 then, I guess, if I can.

5 JUDGE HILLIARD: Okay.

6 BY MS. KRISTIN:

7 Q At this time, are you -- does your

8 budgeting process include linking the source of funds

9 to the proposed plan additions on a project basis?

10 A To, perhaps, clarify and maybe I'm not

11 clarifying, is it -- our budgeting process links

12 certain budgets to certain scopes of work that will

13 be implemented in the first three-quarters of this

14 year.

15 BY MS. KRISTIN

16 Q Okay. But not a specific source of funds

17 that you're aware of anyway?

18 A Correct.

19 MS. KRISTIN: Thank you.

20 JUDGE HILLIARD: Is that all?

21 MS. KRISTIN: That's all, yes.

22 MS. LUSSON: Your Honors, I would like to move

1 for admission of AG Cross-Exhibits 4 and 5, and I
2 believe 6, 7, 8 have been marked we will be directing
3 questions about those exhibits to other witnesses.

4 JUDGE HILLIARD: Is it the same thing for 9?

5 MS. LUSSON: Correct.

6 JUDGE HILLIARD: Exhibit -- is there an
7 objection to 4 and 5.

8 MR. RIPPPIE: No, your Honors.

9 JUDGE HILLIARD: AG Cross Exhibits 4 and 5 will
10 be admitted in the record.

11 (Whereupon, AG Cross Exhibit
12 Nos. 4 and 5 were admitted into
13 evidence.)

14 JUDGE HILLIARD: Next questioners please.

15 I'm assuming you're holding your
16 redirect till the end?

17 MR. RIPPPIE: Yes, your Honors.

18 EXAMINATION

19 BY

20 MR. BALOUGH:

21 Q Good morning, Mr. Donnelly, my name is
22 Richard Balough. I represent the CTA in this

1 proceeding.

2 In your testimony, you indicate that
3 one of the benefits of the Smart Grid is net
4 metering; is that correct?

5 A I don't recall at present.

6 Q If you could turn to, I believe, it's your
7 Direct Exhibit 15 of Page 8, Line 171.

8 A I'm sorry. Supplemental Direct?

9 Q Supplemental Direct, correct.

10 A Thank you. Page?

11 Q Page 8, Line 171.

12 A Yes, okay. Thank you.

13 Q Can you tell me what do you mean by "net
14 metering" there?

15 A "Net metering" basically nets out energy
16 flowing, perhaps, into a particular customer or load
17 center and "net" meaning there may be power flowing
18 out of a particular load center, and then metering,
19 basically, takes the inflow versus the outflow and
20 nets it to a number that references usage.

21 Q Now, there's some customers that already
22 have net metering; is there not?

1 A Yes.

2 Q For example, the railroad class has net
3 metering, correct?

4 A Yes.

5 Q You also state about the same, I believe
6 it's on Page 9 of that testimony, that one of the
7 benefits of the Smart Grid is that customers may
8 be -- will let ComEd know when customers are
9 off-line; is that correct?

10 A Correct.

11 Q And is that primarily a benefit then for
12 residential customers?

13 A It, essentially, can be a benefit for all
14 customers.

15

16

17

18 (Change of reporter.)

19

20

21

22

1 Q For example, if the customer has an
2 operation that goes 24 hours a day, 7 days a week,
3 they certainly would know whether or not they are
4 receiving power from Com Ed, would they not?

5 A Yes, they could know that, that's correct.

6 Q And you're aware, are you not, that, for
7 example, the CTA has its own SCADA system?

8 A I do understand that they have SCADA at
9 many of their facilities.

10 Q Isn't it true that they have a SCADA system
11 that covers all of their traction power facilities?

12 A I don't have detailed knowledge of the
13 extent of their pulse gate system.

14 Q In your testimony you state, I believe,
15 that the CTA is seeking a rate decrease in this case,
16 is that correct? Is that your testimony?

17 A Could you point to that, please?

18 Q Yes, your Exhibit 21, Line 107 -- I'm
19 sorry, 21 at Page 107, Line 2198?

20 A And the line number again?

21 Q 2198.

22 A Thank you. Yeah, I see that.

1 Q Is that a fair reading of your testimony,
2 do you believe the CTA is asking for a rate decrease
3 in this case?

4 A That's a fair reading.

5 Q And on what do you -- I believe you
6 reference CTA Exhibit 2.0 for that knowledge; is that
7 correct?

8 A Correct.

9 Q Can you explain to me what rate decrease
10 you're talking about, that the CTA has asked for?

11 A Well, there is a specific decrease, I
12 believe, in general, references testimony to pay less
13 than the cost of service.

14 Q Let me hand you, I believe it's your
15 reference, CTA Exhibit 2.0. If you could tell me in
16 there where it says that the CTA is requesting a rate
17 decrease?

18 A I can't find specific wording at the
19 present time about a rate decrease.

20 Q Later on you also state that the CTA is
21 seeking rates that are lower than warranted by their
22 imbedded cost of services. If you could look at

1 Exhibit 36 at Page 17, Line 365 for that statement, I
2 have a question about it.

3 A The exhibit you just gave me?

4 Q No, your testimony.

5 A Could you restate the exhibit?

6 Q Sure, 36 on Page 17, Line 365.

7 A That was associated with particular
8 testimony?

9 Q I'm sorry, it's your testimony, I thought.

10 A No, I mean a particular supplemental,
11 direct, rebuttal.

12 Q I'm sorry, it's your supplemental
13 surrebuttal.

14 A Okay, thank you. I appreciate that. The
15 page number?

16 Q Page 17.

17 A Thank you.

18 Q And it's Line 365. And I have a question.
19 In your testimony, it states that -- now I'm
20 paraphrasing for a moment, that CTA continued to
21 claim that they should receive lower rates for their
22 traction power services than is warranted by their

1 imbedded cost of service. Has the CTA submitted a
2 cost of service study in this case, to your
3 knowledge?

4 A To my knowledge, I'm not aware.

5 Q So is the their that you're referring, is
6 that the Com Ed cost of service study?

7 A Can you restate that?

8 Q I'm just trying to find -- when you're
9 referring to their cost of service, is that the Com
10 Ed cost of service that you mean by their?

11 A Generally, yeah. I believe it would refer
12 to the cost of service for Com Ed to service.

13 Q And that would be based on the imbedded
14 cost of service study prepared by Com Ed; is that
15 correct?

16 A I would have to confer with some other
17 witnesses or Mr. Crumrine to confirm that.

18 Q I'm just asking, when you say by their
19 imbedded cost of service, I'm just trying to find out
20 if you're referring to your cost of service study or
21 some other cost of service study. It's your
22 testimony.

1 A Yes, I am not -- I believe it's referring
2 to our imbedded cost of service.

3 Q And I believe you state later on that you
4 are not a cost of service expert; is that correct?

5 A Correct.

6 Q And you are not offering any testimony
7 concerning cost of service; is that correct?

8 A Right.

9 Q Are you aware that the Com Ed cost of
10 service study does not specifically identify the
11 costs and investments associated with the railroad
12 class?

13 A No, I'm not aware.

14 Q Now, you were able to, in preparing your
15 testimony, look at specific circuits that service the
16 CTA; is that correct?

17 A I looked at some.

18 Q There are, for example, there are one-line
19 diagrams that -- which show the specific circuits
20 that serves the CTA's loads; is that correct?

21 A Correct.

22 Q And could you explain, for the record, what

1 a, when we refer to a one-line diagram, what that is?

2 A A one-line diagram is a depiction on a
3 circuit map on how the distribution electric grid is
4 configured and how customers are connected to that.

5 Q So, in other words, on a one-line diagram
6 we would see, for example, a -- either a Com Ed
7 substation or a Com Ed bus with a circuit leading
8 from that going out of that bus; is that correct?

9 A Yes.

10 Q And it would then follow on a geographic
11 basis, in the case I'm talking about, go to a CTA
12 traction power substation; is that correct?

13 A Correct. It would follow on a geographic
14 and electrical configuration basis.

15 Q And just so the record is clear, it's your
16 understanding that in each of the -- well, let me
17 backup, when I'm talking about traction power
18 substation -- traction power to begin with, you
19 understand that that is the electrical power to serve
20 a CTA's electric trains?

21 A Yes.

22 Q And at various points along the CTA system,

1 the CTA has what are called CTA traction power
2 substations; is that correct?

3 A Correct.

4 Q And Com Ed provides service to those
5 substations, the CTA traction power substation; is
6 that correct?

7 A Yes.

8 Q So when we're looking at a one-line
9 diagram, for example, we would be able to see a
10 particular Com Ed substation. We would be able to
11 see a circuit by circuit number and it would go to a
12 particular CTA traction power substation; is that
13 correct?

14 A Yes.

15 Q And we could, for the CTA, for traction
16 power, to their traction power substations, we would
17 be able to determine, and you have the records to
18 indicate, all of the circuits that served all of the
19 CTA traction power substations?

20 A Yes.

21 MR. BALOUGH: That's all the questions I have.

22 JUDGE HAYNES: Let's take a 2-minute break.

1 (Break taken.)

2 JUDGE HILLARD: Who is the next questioner?

3 MR. GOWER: I am, you Honor. Madam court
4 reporter, I haven't entered my appearance yet in this
5 hearing, I gave you my card. My name is Ed Gower,
6 I'm with the law firm Hinshaw and Culbertson, 400
7 South 9th, Suite 200, Springfield, Illinois 62701. I
8 represent Metra in this matter.

9 CROSS EXAMINATION

10 BY

11 MR. GOWER:

12 Q Mr. Donnelly, are you ready to answer some
13 questions? My name is Ed Gower, I represent Metra in
14 this matter. Mr. Donnelly, at Page 7 of your
15 supplemental direct testimony, at Lines 145 to 152, I
16 don't think you'll need to refer to it, but you may,
17 you identified what you perceived to be the four
18 principal categories of benefits to customers of
19 implementing Smart Grid technologies. Do you recall
20 that testimony?

21 A Yes.

22 Q And in your opinion, one of the four

1 principal categories of benefits in implementing
2 Smart Grid technologies was the provision of
3 environmental benefits; is that correct?

4 A Yes.

5 Q And the implementation of Smart Grid
6 technologies is a major initiative for Commonwealth
7 Edison, is it not?

8 A Yes, it would be.

9 Q And you are one of Commonwealth Edison's
10 key witness advocates of the implementation of Rider
11 SMP and associated Smart Grid technologies; is that
12 correct?

13 A Yes, I am.

14 Q And the purpose of your testimony was to
15 urge the Commission to adopt Rider SMP and implement
16 Smart Grid technologies; is that correct?

17 A Yes.

18 Q And since you've highlighted environmental
19 benefits as one of the four principal categories of
20 benefits of Smart Grid technologies, I assume you
21 believe that it is appropriate for the Commission to
22 consider the environmental benefits that may flow

1 from its decisions as an important consideration in
2 its decision making process; is that correct?

3 A Well, I don't know specifically whether the
4 Commission can consider environmental benefits, but
5 benefits that we see from increased -- decreased
6 usage or better usage from customers or usage savings
7 or reduced cars for meter readers that would drive
8 reading meters, I believe are real savings are
9 environmental savings to customers and to our service
10 territory.

11 Q And you think that's an important
12 consideration that the Commission should take into
13 account in evaluating Rider SMP; is that correct?

14 A Yeah, benefits to customers, I think, are
15 an important consideration.

16 Q And taking cars off the road, I believe you
17 said; is that correct?

18 A That would be one of the benefits of AMI.

19 Q Now, you described the service to the CTA
20 substations. Are you also familiar with the service,
21 Commonwealth Edison service, to the Metra
22 substations?

1 A To some degree.

2 Q And are they configured, essentially, the
3 same as what you described for the CTA substations?

4 A There are similarities.

5 Q Well, in the direct testimony of Mr. Wes
6 Szerla, who is Metra's director of
7 electrical-mechanical engineering, he testified that
8 at eight of Metra's substations, that there are two,
9 12 kilovolt lines feeding the substations. And at
10 Metra's other two substations there are three 12 kV
11 lines feeding the substation.

12 He also testified that at all of the
13 Metra substations, there is a tiebreaker installed
14 within the Metra substation that allows the incoming
15 lines to be tied together. And that the tiebreakers
16 are normally maintained in the closed position. Have
17 you read that testimony?

18 A I'm familiar with the content of the
19 configuration that you're describing.

20 Q And do you agree with that description of
21 the configuration?

22 A Yes.

1 Q Now, Mr. Szerla also testified that the
2 practical effect of having a tiebreaker between the
3 incoming lines that's operated in a closed position,
4 is that it allows electricity to flow freely between
5 Metra substations and between the Commonwealth
6 Edison's lines. Mr. Szerla's description is correct,
7 is it not?

8 A Yes, energy would flow through a closed
9 tiebreaker.

10 Q Now, when you prepared your rebuttal
11 testimony in this case, you had not studied the
12 actual flow of electricity through Metra substations
13 at that point, had you?

14 A No, I had not.

15 Q And you weren't -- in fact, you weren't
16 familiar at all with the actual flow of electricity
17 through Metra substations when you prepared your
18 rebuttal testimony; isn't that correct?

19 A The actual flows?

20 Q Yes.

21 A No.

22 Q So when you testified on Lines 2216 of Page

1 108 of your rebuttal testimony -- I'll wait until you
2 get there.

3 A On page?

4 Q 108 and I think it's Lines 2216 and 2217.

5 A 108, thank you.

6 Q Are you there?

7 A Yes, I am.

8 Q When you testified that the through-flow of
9 electricity through Metra and CTA substations, quote,
10 should be atypical in any event, you really did not
11 know whether the flow of electricity through the
12 Metra substations, through the closed breaker, was
13 typical or atypical, did you?

14 A The basis of my answer was general
15 knowledge of configuration of the distribution grid
16 serving customers.

17 MR. GOWER: Ms. Court Reporter, can you read my
18 me question back, please. And could you answer my
19 question?

20 (Whereupon, the record was
21 read as requested.)

22 THE WITNESS: I have not studied the actual

1 loads for Metra.

2 BY MR. GOWER:

3 Q So you didn't know whether it was typical
4 or atypical when you prepared your testimony; is that
5 correct?

6 A I base my answer just on the general
7 knowledge of the configuration feeding Metra.

8 Q After you submitted your rebuttal
9 testimony, did you have an opportunity review the
10 rebuttal testimony of James Mitchell, Metra's
11 director of energy management?

12 A I've scanned that.

13 Q Are you familiar with Mr. Mitchell's
14 testimony that a Com Ed meter -- outflow meter at
15 Metra's Laflin substation measuring electricity
16 flowing out of the substation malfunctioned and that
17 Metra was charged with the cost of electricity
18 through Metra substation that was used by other
19 customers?

20 A Yes, I am aware of a meter malfunction.

21 Q And are you aware that Metra was charged
22 for the electricity that was actually used by other

1 customers after the electricity passed through
2 Metra's substation?

3 A I believe that would be the case, due to
4 the malfunction.

5 Q Now, when you reviewed Mr. Mitchell's
6 rebuttal testimony, did you also review Metra
7 Exhibit 4.01 that was attached to his testimony,
8 that's the chart that was prepared that showed the
9 flow of electricity come -- entering and exiting the
10 Laflin substation? I have it here if that would be
11 helpful for you to see.

12 A It may be helpful.

13 MR. GOWER: May I approach the witness?

14 JUDGE HILLARD: Yes.

15 BY MR. GOWER:

16 Q Have you had a chance to review Metra
17 Exhibit 4.01?

18 A No, not in detail.

19 Q Do you want to take a moment just to look
20 at it?

21 A Okay.

22 Q Now, are you aware that as part of the

1 settlement procedure that Com Ed actually conducted a
2 one-year study of the electricity entering Metra's
3 Laflin substation and exiting through the meter in
4 question?

5 A No, I'm not aware.

6 Q Do you understand that Metra Exhibit 4.01
7 is a summary of information compiled by Com Ed after
8 its one-year study?

9 A I haven't researched this particular
10 exhibit.

11 Q When you looked -- when you reviewed
12 Mr. Mitchell's testimony and glanced at Metra
13 Exhibit 4.01, did you realize that in the sixth
14 column over, the chart in your hand reflects that
15 almost 11 million kilowatt hours of electricity had
16 flowed through and exited one of its meters at the
17 Laflin substation?

18 A I see that.

19 Q Do you realize that 11 million kilowatt
20 hours is a tenth of Metra's total electric train
21 district usage of electricity for a year?

22 A I don't have the knowledge in front of me

1 on what their usage is.

2 Q Do you know how much Com Ed paid Metra in
3 connection with the settlement?

4 A No.

5 Q Now, after you filed your rebuttal
6 testimony, and had reviewed Mr. Mitchell's response,
7 did you ask your staff to obtain information for you
8 about Com Ed's service to the Metra Laflin
9 substation?

10 A No, I did not.

11 Q Did anyone, to your knowledge, at
12 Commonwealth Edison seek to obtain the meter numbers
13 from the Laflin substation?

14 A I don't have knowledge of that.

15 Q Nobody furnished that information to you to
16 assist you in preparing your testimony?

17 A No.

18 Q Did you provide any instructions to conduct
19 maintenance at the Laflin -- near the Laflin
20 substation after you filed your testimony?

21 A No.

22 Q Now, in the general scheme of things, when

1 electricity is flowing through Metra substations
2 between two or more feeders, does that help balance
3 Com Ed's supply of electricity on the two feeders in
4 any respect?

5 A No. And in the case of a through-flow,
6 through Metra equipment, that flow would in general
7 only occur when the Com Ed services from other
8 substations are on and carrying a load and serving
9 the load of those particular feeders.

10 Q I'm not sure I understand what you mean,
11 can you explain?

12 A Perhaps I'm not answering your question,
13 but the issue of Metra equipment may have a closed
14 tiebreaker, there could be an occasion when power
15 would flow through a closed tiebreaker, through Metra
16 substations and flow out of that particular
17 substation.

18 My only comment is meant to say the
19 only way that happens is when the Com Ed grid is in
20 its normal configuration and the Com Ed feeders which
21 are designed to carry the full load of those
22 particular feeders are on and energized.

1 Q By the way, when you talked about those --
2 the feeders being on and energized and in use, how do
3 you size the feeders? For example, the feeders
4 coming in to Metra with a tiebreaker configuration,
5 within the Metra substation, describe how you would
6 design the two feeders and what load they would be
7 expected to carry.

8 A Well, we'll not comment specifically on
9 specific design criteria, but we design our feeders
10 to carry the full loads or full demand or the full
11 load of all our customers served by a particular
12 feeder.

13 Q So in the case of the Metra substations
14 with a feeder coming in, for want of a better
15 description, on either side of the substation, would
16 the feeder on the left be designed to carry the load
17 only if the customer served on the left, but not the
18 load of the customer served on the right, for the
19 right feeder? Or would it be designed to serve the
20 load for both feeders?

21 A No, the feeder is designed to carry the
22 load of only the customers connected to that

1 particular feeder. You use the term like on the
2 left, I'm assuming that may refer to, say, half the
3 load of a particular customer fed by two lines. So
4 that the feeder's designed only to carry the load
5 connected to that particular feeder versus the load
6 of adjoining feeders. Unless it's on an emergency
7 basis, if we have some kind of fault. There is some
8 emergency rating of equipment where we use other
9 lines to restore customers and configure things
10 temporarily.

11 Q And does that ever occur with the Metra
12 substations?

13 A Does what ever occur?

14 Q Did you ever use the flow through the Metra
15 substations to reconfigure the lines or perform the
16 other services that you described?

17 A No.

18 Q Now, Mr. Szerla testified that Metra
19 tiebreakers are normally operated in a closed
20 position, which would allow, as I think you agree,
21 would allow electricity to flow between the two lines
22 feeding a Metra substation.

1 If I understand your testimony or at
2 least part of your testimony correctly, your opinion
3 is that this adds no operational or functional
4 benefit to the reliability of the Commonwealth Edison
5 system because, among others, Com Ed cannot control
6 whether Metra operates the breakers in a closed
7 position; is that correct?

8 A Correct.

9 Q Yet, when you responded to testimony from
10 the CTA and the Metra witnesses, to the effect that
11 they had to obtain Com Ed approval to open the
12 tiebreakers and their subsections, you testified, and
13 I'm going to quote from your testimony, but if you
14 would like to refer to it, it's in your surrebuttal
15 testimony, it's Page 22 and it's --

16 A It's okay.

17 Q You said that the, quote, operational need,
18 end quote, to notify Com Ed and request its
19 permission for planned outages for railroad traction
20 power substation equipment is to prevent overloads
21 that could occur as a result of opening a railroad
22 circuit breaker under certain feeder or substation

1 configurations.

2 In addition, industry standard safety
3 rules require notification, assignment of
4 responsibility, grounding and appropriate provisions
5 to prevent unplanned energizing of portions of the
6 system to prevent serious injury or equipment damage.
7 Com Ed is the designated authority for any equipment
8 directly connected to its distribution system.

9 Do you have control over when the
10 substation -- when the Metra substation tiebreakers
11 can be opened, you being Commonwealth Edison?

12 A The Metra has control of whether their
13 particular tiebreaker should be opened. As an
14 overall authority overseeing a configuration of the
15 grid, we do need to know the configuration of
16 equipment at different periods of time for reasons of
17 safety, breaker position and the like.

18 Q Consistent with that, does Metra have to
19 seek Commonwealth Edison's authority to open its
20 breakers, is that your understanding?

21 A Yes, my understanding is that the Metra
22 should communicate with Com Ed before opening the

1 equipment at their substations, so we're aware of the
2 configuration of the grid at a particular time.

3 Q Now, if I understood your testimony, I
4 think you said that there is a theoretical
5 possibility that the configuration of the Metra
6 substations could improve the reliability of the Com
7 Ed system, but that's only when the Metra substation
8 is fed by an intermediate bus between the Com Ed
9 supply substation and the Metra substation; is that
10 correct?

11 A Yes.

12 Q And I think you said according to your
13 testimony, and in most instances, there is a bus at
14 the substation and there is no breaker in between
15 that and the Metra substation; is that correct?

16 A Yes.

17 Q And so you testified that a bus failure,
18 which, in turn, if there were a bus failure it would
19 allow electricity to flow through the Metra
20 substation and feed the customers on the other line
21 if need be, correct, to provide the breaker?

22 A It's possible, theoretically, if that

1 breaker remained closed and didn't trip on overload
2 or didn't trip on fault current that would be
3 existing in the system associated with any particular
4 bus fault, cable fault or substation fault.

5 Q I think you also testified that a bus
6 failure is highly improbable and, in fact, occurs, on
7 average, about once in every 400 years; is that
8 correct?

9 A I believe that's in my testimony.

10 Q And you also testified that in only
11 extraordinary, isolated, convoluted circumstances
12 could a small minority of customers ever receive
13 service because of railroad facilities; is that
14 correct?

15 A Yes.

16 Q What are those circumstances?

17 A What I meant in the testimony on what those
18 small minority of circumstances could be, is that on
19 circumstances where the other service to a Metra
20 facility comes off a, what we call an intermediate
21 bus or a supply point that's remote from the
22 substation, if there was a fault toward the

1 substation, from that intermediate bus toward the
2 substation, it's conceivable, although highly
3 unlikely from operating, that the Metra breaker on
4 the substation, conceivably could remain closed, if
5 there was not enough fault current or it did not trip
6 on overload.

7 If in that unique circumstance the
8 breaker remained closed there could be a temporary
9 state of energy supplied from the Metra substation to
10 a portion of the Com Ed line. Again that would
11 assume the breaker didn't trip on overload or fault
12 current, which in most of the cases that does occur.
13 And that would be temporary in nature until we had
14 our operators respond in order to appropriately open,
15 if the breaker didn't open, on the rare occasion that
16 the Metra switch gear temporary period of time until
17 the operator would go there or Metra personnel would
18 go there and open the particular breaker.

19 Q Does Com Ed ever do any maintenance on its
20 system?

21 A Yes, we perform maintenance on the system.

22 Q Does that include substations?

1 A Yes.

2 Q Does that include electrical buses?

3 A Yes.

4 Q On average, how frequently does Com Ed take

5 a bus out of service for maintenance that's serving a

6 Metra substation?

7 A I don't have that information readily at

8 hand.

9 Q When that Com Ed substation was taken out

10 of service, for example, could the bus remain hot and

11 could electricity flow through the Metra substation

12 and serve customers who otherwise wouldn't get

13 service during the maintenance?

14 A If we took a bus out of service to perform

15 maintenance, we would not rely on Metra equipment to

16 serve our customers. We would rely on other

17 switching points, as per our design and operating

18 guidelines, to keep customers on during maintenance

19 and would not rely on Metra gear.

20 Q And why don't you just tell me what

21 procedure it is that you follow to perform

22 maintenance on Com Ed buses or breakers between Metra

1 substations?

2 A I can't quote a particular procedure. We
3 have numerous procedures that govern the taking out
4 of equipment or the deenergization of equipment in
5 order to facilitate maintenance.

6 Q Are there any other customers who have
7 similar arrangements to those of Metra with a
8 tiebreaker between two Com Ed feeders?

9 A I haven't completed an extensive study on
10 the system. There may be some other customers, there
11 are CTA customers that have the closed tiebreaker
12 type of configuration that you're referencing.

13 Q And do you know whether -- well, let's take
14 the CTA for example. Do you know whether that same
15 situation exists with respect to the Metra feeders?

16 A The same situation, which one?

17 Q Meaning there are customers on those
18 feeders that have a similar configuration with a
19 tiebreaker?

20 A Yes, I believe there are some similar
21 configurations.

22 Q Would that allow Com Ed in any way to

1 sectionalize those feeders?

2 A The equipment at the CTA or the Metra?

3 Q The equipment that the other customers can

4 you use, they have to sectionalize, for example, if

5 you had fault problems on that line?

6 A If we had fault problems on the line

7 feeding different switch gear, we can use whatever

8 equipment that's at a facility to isolate a

9 particular fault until we can effect repairs.

10 MR. GOWER: That's all the questions I have.

11 Thank you, Mr. Donnelly.

12 THE WITNESS: Thank you.

13 JUDGE HILLARD: Next questioner, please.

14 CROSS EXAMINATION

15 BY

16 MS. SKOLNICK:

17 Q Good morning, Mr. Donnelly. My name is

18 Rochelle Skolnick, I represent I.B.E.W. Local 15.

19 Do you have a copy of Com Ed

20 Exhibit 15.1 in front of you?

21 A That's associated with what particular

22 testimony.

1 Q Your supplemental direct testimony, which
2 is Exhibit 15.

3 A Exhibit 15.

4 Q 15.1.

5 A Yes. Thank.

6 Q Could you please identify what this is?

7 A Exhibit 15.1?

8 Q Yes.

9 A Exhibit 15.1 is an overview document that
10 describes, at a high level, the benefits of a Smart
11 Grid and why we perform that.

12 Q Were you involved in the preparation of
13 this document?

14 A I've reviewed this document.

15 Q Can you tell us who prepared the document
16 and who participated in preparation of the document?

17 A I don't recall exactly who prepared it or
18 participated in it.

19 Q You don't recall any of the individuals who
20 participated in preparation of it?

21 A No, not at this time.

22 Q Do you recall when this document was

1 prepared?

2 A It would be in the January 2008 timeframe.

3 Q Do you recall for what purpose this

4 document was prepared?

5 A I can't recall the specific purpose. There

6 are different overview documents, summary documents

7 prepared, like in this case. An overview of Smart

8 Grid or why we need to transform the grid that's used

9 in different meetings to discuss the topic.

10 Q So do you recall the audience at which this

11 document was aimed?

12 A I don't recall right now the audience,

13 that's correct.

14 Q But you just indicated that it would have

15 been used at various meetings. Are you talking about

16 meetings within Com Ed?

17 A It could be, I just don't recall the

18 specifics on when this particular document was

19 discussed.

20 Q Do you have a copy in front of you of 15.2?

21 A Yes.

22 Q Can you identify this document?

1 A Yes, System Modernization Project
2 Recommendations.

3 Q And were you involved in the preparation of
4 this document?

5 A No, I was not.

6 Q Do you know who was?

7 A No, I don't recall the name of who prepared
8 the document.

9 Q You don't recall any of the individuals who
10 prepared this document?

11 A No, I do not, not at the present time.

12 Q Do you know when it was prepared?

13 A It would be in the January 2008 timeframe.

14 Q And do you know for what purpose this
15 document was prepared?

16 A The document is prepared as a summary
17 document, describing the different projects that
18 we're recommending to be included in Rider SMP.

19 Q The project is entitled project
20 recommendations. Do you know whose recommendations
21 these were?

22 A These are Com Ed's recommendations on what

1 we propose to be included in Rider SMP.

2 Q And to whom were they making these
3 recommendations?

4 A The particular project recommendations for
5 SMP are made -- these recommendations are made as
6 part of the Rider SMP submission to the ICC in this
7 rate case.

8 Q So what you're saying is that this document
9 was prepared especially for this proceeding?

10 A I can't recall whether -- I can't comment
11 with specificity whether it was prepared specifically
12 for submittal to the ICC. It can serve that purpose
13 to summarize the investments that we propose for SMP.
14 It could also have been used in internal discussions
15 where we discussed proposed projects for SMP.

16 Q But you're not sure?

17 A That's correct.

18 Q But just to clarify, this exhibit, 15.2 and
19 the previous one, 15.1 were submitted with your
20 testimony?

21 A Yes.

22 Q Com Ed has projected that in Phase 0 of the

1 AMI project, approximately 200,000 meters equipped
2 with AMI technology will be installed; is that
3 correct?

4 A Yes, I believe that's Ms. Clare's
5 testimony. I would defer to Ms. Clair.

6 Q I think in a general fashion you've also
7 testified about this project; isn't that right?

8 A That's correct.

9 Q Do you know which bargaining unit
10 classifications currently install meters at Com Ed?

11 A I can't comment in specifics around that.
12 I know that certain meters are installed by our
13 bargaining unit personnel within Com Ed.

14 Q So you would agree that installation of
15 meters is generally work that is ordinarily and
16 customarily performed by the bargaining unit.

17 A I would basically defer to Ms. Clair
18 for that testimony. I believe that she's testified.

19 Q So you don't know the answer to that
20 question?

21 A I defer to Ms. Clair for that, since that
22 area of meter installation would be under her thread

1 of responsibility.

2 (Whereupon, IBEW Cross Deposition
3 Exhibit No. 1 was
4 marked for identification
5 as of this date.)

6 BY MS. SKOLNICK:

7 Q I've just given you a copy of what I've
8 marked as I.B.E.W. Cross Exhibit No. 1. I apologize
9 for the quality of the photocopy in this. And this
10 is Com Ed's response to I.B.E.W.'s Data Request 1.05;
11 is that correct?

12 A Yes.

13 Q And this is one of the data request
14 responses to which you are attesting, correct?

15 A I'm not sure.

16 Q I believe it is. In this response the
17 Company indicates that in regard to turn-ons,
18 turn-offs and off cycle reads, employees do not
19 perform many of these transactions manually today.
20 Do you see where it says that?

21 A Yes, I do.

22 Q Do you know how many bargaining unit

1 full-time equivalents currently are devoted to
2 turn-ons, turn-offs and off cycle reads manually?

3 A No, I don't.

4 Q Isn't it true during the warm weather
5 months of May through October, which is informally
6 known as cut season, Com Ed typically upgrades
7 approximately 20 meter readers so that they can
8 perform turn-offs manually?

9 A I would respectfully defer to Ms. Clair for
10 answers to this question, since that particular
11 function is her direct area.

12 Q Well, I understand that. However, you are
13 the Com Ed witness who has attested to this
14 particular data request and that's why I'm asking you
15 for an answer with regard to this subject. Do you
16 know the answer to the question that I've just asked?

17 A Could you please restate the question?

18 Q Sure. Isn't it true that during the warm
19 weather months of May through October, which is
20 commonly known as cut season at the Company, that Com
21 Ed typically upgrades approximately 20 meter readers
22 so that they can perform manual turn-offs?

1 A I do not know.

2 Q You don't know the answer to that, okay.

3 Do you know whether Com Ed has also
4 considered engaging contractors to perform these
5 manual turn-offs?

6 A I do not know.

7 Q Also in this Data Response 1.05, the
8 Company indicates that while certain activities will
9 certainly be eliminated, it is anticipated that other
10 work will be created for Com Ed employees with the
11 implementation of these Smart Grid technologies.

12 Could you please elaborate on that
13 statement and list the work that you anticipate will
14 be eliminated?

15 A Your first part of the question again is to
16 list the work that would be eliminated?

17 Q Yes.

18 A Okay. In the response here I attest in a
19 general way to the benefits or some of the benefits
20 of AMI. Some of the work that would be eliminated
21 would be meter reading and potentially some turn-offs
22 and turn-ons, if in the final approval AMI meter

1 would have remote disconnect switches. That would be
2 some examples.

3 Q Those are some examples. Is that a
4 complete list of the work that you anticipate will be
5 eliminated?

6 A I do not think it is.

7 Q Are there any other examples that you can
8 think of?

9 A AMI investment in general has a variety of
10 benefits, such as outage detection, which may save a
11 member of the work force of having to go to a
12 customer to confirm power's on, thereby speeding
13 restoration, that could be another example.

14 Q Okay. Could you now give me a list of the
15 work that you anticipate will be created with the
16 implementation of AMI?

17 A I don't have a list of the work that would
18 be created.

19 Q But in this answer, you state that it's
20 anticipated that other work will be created; is that
21 correct?

22 A Correct.

1 Q But you don't know what other work that
2 might be?

3 A I don't have a detailed list. With the
4 implementation of any new technology, there can be
5 maintenance requirements or trouble shooting
6 requirements that might come to be, with the
7 implementation of any new investment.

8 Q And does Com Ed anticipate that any such
9 work that arises will be performed by its bargaining
10 unit employees?

11 A We don't have that determined at this point
12 in time.

13 Q Okay. Two of the aspects of the Smart Grid
14 that Com Ed proposed for inclusion in the Rider SMP
15 are the automatic switches and reclosers project and
16 the automatic line reconfiguration project, correct?

17 A Yes.

18 Q The automatic switchers and reclosers
19 project involves adding reclosers and switches to
20 certain parts of the power grid; is that correct?

21 A Yes.

22 Q Does Com Ed, prior to this automatic

1 switches and reclosers project have reclosers and
2 switches installed on its power grid?

3 A Yes, we do have some.

4 Q And would it be safe to say that to the
5 extent those reclosers and switches are installed in
6 the power grid, the work of installing those things
7 has been performed by the bargaining unit?

8 A From my knowledge of the installation of
9 that equipment, it has been installed by a
10 combination, some by the bargaining unit within Com
11 Ed, some by contractors.

12 Q Do you know which contractors?

13 A Not at hand.

14 Q But the work has been performed by the
15 bargaining unit?

16 A Yes, some of the reclosing work,
17 installation have been performed by Local 15.

18 Q Do you know which bargaining unit
19 classification is responsible for that installation?

20 A Define what you mean by bargaining unit
21 classification.

22 Q Well, I believe that the bargaining unit is

1 divided up into various work classifications, do you
2 know which classification would be responsible for
3 installing switchers and reclosers?

4 A For some of the work that was performed or
5 installed by the bargaining unit versus contractors,
6 it was typically through our overhead work force.

7 Q Does the bargaining unit also inspect,
8 maintain and repair those switches and reclosers?

9 A Yes.

10 Q Another aspect of the Smart Grid that Com
11 Ed has proposed is the enhanced line isolating
12 control project, correct?

13 A Yes.

14 Q And that project involves adding
15 microprocessing relays on certain distribution lines;
16 is that right?

17 A Yes.

18 Q Does Com Ed, prior to this project, have
19 relays on its distribution lines?

20 A Com Ed has relays in general, relays on all
21 of its distribution lines.

22 Q And in general, is the bargaining unit

1 responsible for installing those?

2 A Yes. We've had a combination, similar to
3 reclosers, of installation of microprocessor relays,
4 to my knowledge, has been done both by the bargaining
5 unit and it may have been done by contractors in
6 different times in the past. I don't have the
7 details at hand.

8 Q And do you know whether the bargaining unit
9 also is responsible for inspecting, maintaining and
10 repairing those relays?

11 A It's a mix.

12 Q But the bargaining unit has had
13 responsibility for doing that?

14 A Some aspect of it. Some aspect of the
15 maintenance of our relay system is performed by
16 management personnel.

17 Q Okay. So to the extent that work is not
18 performed by management personnel, it is performed by
19 bargaining unit employees?

20 A The maintenance of the system?

21 Q Um-hmm.

22 A Correct. I would clarify one aspect, if

1 you would allow me.

2 Q Sure.

3 A There is some maintenance on our extra high
4 voltage system, our 345 kV transmission grid.
5 Maintenance on the Motorola equipment associated with
6 our microwave relaying system is performed by a
7 contractor under a maintenance agreement with
8 Motorola.

9 Q Does Com Ed anticipate having such a
10 maintenance agreement with the vendor of whatever
11 relays are installed as part of this project?

12 A We have not defined any type of maintenance
13 contract for this particular equipment at the present
14 time.

15 Q Would you characterize that maintenance
16 agreement as a kind of warranty?

17 A No, I would say a warranty would be if
18 you're installing new equipment and it fails in a
19 certain amount of time, the manufacturer of that
20 equipment would either replace or repair the unit
21 free of charge to the company. A maintenance type of
22 function is a regular function, on some degree a

1 periodicity to keep the equipment in good working
2 order.

3 Q So would you say that it would be, from Com
4 Ed's perspective, with regard to the new equipment
5 that's installed, the relays, the switches, the
6 microprocessors, that it would be desirable from Com
7 Ed's perspective to enter into a maintenance
8 agreement with the vendor of that equipment?

9 A No, I'm not saying it's desirable to do
10 that, I'm just saying we haven't fully determined
11 that at this point in time.

12 (Whereupon, IBEW Cross Deposition
13 Exhibit No. 2 was
14 marked for identification
15 as of this date.)

16 BY MS. SKOLNICK:

17 Q I've put in front of you what I've marked
18 as I.B.E.W. Local 15 Cross Exhibit No. 2. This is
19 Com Ed's response to I.B.E.W.'s Data Request
20 No. 1.06. This is another one of the data requests
21 to which you have attested; is that correct?

22 A Yes.

1 Q In this response Com Ed states that in
2 regard to the automatic switchers and reclosers
3 project, it's not able to determine what portion of
4 the approximately \$21.75 million investment it
5 projects over fourth quarter 2008 and 2009, what
6 portion of that investment is taken up by labor costs
7 associated with the project. Is that still the
8 Company's position, Mr. Donnelly?

9 A Yes.

10 Q Is the reason -- could you tell me why the
11 Company is unable to determine what proportion of
12 that total investment relates to labor costs?

13 A Sure. We have performed this work in the
14 past, to some degree, based on installing some of
15 this equipment on our system to address specific
16 reliability concerns. So we have some information of
17 past installation of labor versus material, to
18 install some of this -- some of this equipment on our
19 system.

20 In SMP, we are proposing to install
21 this equipment in a programmatic way, in a large
22 scale, over multiple years, to be integrated with

1 data from relays, to be integrated from with data
2 from AMI meters as part of a Smart Grid system versus
3 a one off situation.

4 The reason we don't know in detail the
5 labor costs versus material costs for that, is that
6 in a multiple year type of investment proposed in
7 SMP, there can be additional economies of material,
8 cost savings, if we're making a multiple year
9 commitment to buy a certain equipment. Or there can
10 be labor savings, you know, based on the fact that
11 this work may become more highly repetitive than the
12 past, which may lead to savings in labor costs or
13 install costs.

14

15

16 (Change of reporter.)

17

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22

1 Q So what you're suggesting is that these
2 figures could change substantially from what ComEd
3 projects?

4 A No. We estimate -- our estimate of the
5 amount of equipment that we'll install and the cost
6 and benefit is articulated here in our response.

7 What I'm only commenting to you is the
8 mix of labor versus equipment and how those precise
9 percentages are not known at this time. In terms of
10 the high level dollar estimates to complete this SMP
11 type of investment, that would be accurate.

12 Q But I think if I could just follow up on
13 what you just said, what you're suggesting is that
14 you could see certain economies of scale that would
15 reduce labor costs over all, and you could also see
16 certain economies that would reduce the materials
17 cost.

18 If you saw reductions in both of
19 those, isn't it true that these figures would change
20 substantially from what you projected?

21 A I don't think they would -- it's difficult
22 to speculate what the actual change in those costs

1 would be based on any savings.

2 Suffice to say, there are continual
3 amounts of equipment added to the system each year so
4 additional work of a similar type of investment may
5 occur to capitalize on any savings.

6 Q Also in this response, the company
7 indicates that it has not yet determined the mix of
8 contractor and bargaining unit labor be used to
9 install that project.

10 Is that still true?

11 A Yes, that's still true.

12 Q Would it be correct to say that ComEd is
13 considering using contractor labor to install this
14 project?

15 A We consider many options of how to complete
16 a particular investment including use of contractors.

17 Q Who participates in considerations with
18 regard to use of contractors for this kind of
19 project?

20 A It would be many groups. It could be many
21 groups.

22 Q Could you give me some examples?

1 A Sure. It could be our work planning groups
2 that look at schedules and resource loading. It
3 could be our line departments that directly oversee
4 the workforce within ComEd. It could be our
5 engineering departments that are involved in specing
6 out the equipment.

7 Q So specifically with regard to the
8 automatic switches and reclosers project, who is
9 responsible for deciding whether to use bargaining
10 unit or contractor labor?

11 A I have to say it's a collaborative process
12 between work planning groups, our line departments.
13 In any decision to use contractors, we do involve
14 Local 15 in certain meet and discuss dialogue around
15 completing a particular contract if we're --
16 particular investment if we are considering using
17 contractors.

18 Q So with regard to this project, has the
19 company thus far compared the costs of doing the work
20 in house using the bargaining unit as opposed to
21 using contractors?

22 A No, at this time we have not.

1 Q So those comparisons have not been made?

2 A Correct.

3 (Whereupon, IBEW Local 15

4 Exhibit No. Cross 3 was marked

5 for identification.)

6 MS. SKOLNICK: Q I have put in front of you
7 what's marked as IBEW Local 15 Cross Exhibit 3. This
8 is ComEd's response to IBEW data request
9 No. 1.07, another one of the responses to which you
10 are attesting; is that correct?

11 A Yes.

12 Q In its response to this data request, ComEd
13 states that with regard to the automatic line
14 reconfiguration project ComEd is not able to
15 determine the proportion of the approximately \$4
16 million investment over fourth quarter '08 and '09
17 that is taken up by labor costs associated with the
18 project.

19 Is that still the company's position?

20 A Yes, it is.

21 Q And in order to not bog down the record
22 with more than we need here but would your answer be

1 if I were to ask you why the company has not
2 determined that, would it be roughly the same as your
3 answer to the previous questions about the automatic
4 switches and reclosers project?

5 A Yes, it would.

6 Q Also in this response, the company states
7 that it's not yet determined the mix of contractor
8 and bargaining unit labor to be used to install the
9 project.

10 Is that also still true?

11 A Correct.

12 Q And has the company considered using
13 contractor labor to install this project?

14 A As per the previous discussion, we will
15 consider all aspects of options to complete a
16 particular project.

17 If we are considering contractors, we
18 will engage in discussions with Local 15 if we are
19 making that consideration.

20 Q Is the same group of people responsible for
21 making the decision with regard to contractor versus
22 bargaining unit labor for this project as for the

1 automatic switches and reclosers project?

2 A I'm just recalling the answer --

3 Q I think what you said before was that the
4 work planning department, the line department, the
5 engineering department would all be responsible for
6 making decisions about use of contractor labor and
7 then I think you mentioned discussions with Local 15?

8 A Yes. I would just clarify if there is
9 consideration using contractors, it does include
10 discussions with Local 15.

11 Q For the automatic line reconfiguration
12 project, has the company compared the costs of doing
13 the work in house using bargaining unit labor as
14 opposed to using contractors?

15 A No.

16 (Whereupon, IBEW Local 15

17 Exhibit No. Cross 4

18 was marked for identification.)

19 MS. SKOLNICK: Q I have put in front of you
20 what's been marked as IBEW Local 15 Cross Exhibit No.
21 4. This is ComEd's response to IBEW data request No.
22 1.08, another one of the responses to which you are

1 attesting; is that correct?

2 A Correct.

3 Q Okay. In this response, ComEd states that
4 with regard to the enhanced line isolating control
5 project, ComEd is not able to determine the
6 proportion of the \$10 million investment over fourth
7 quarter '08 and 2009 that's taken up by labor costs
8 associated with the project.

9 Is that still the company's position?

10 A Yes, it is.

11 Q And why has the company not determined the
12 proportion of costs devoted to labor?

13 A From a -- similar to some of the other
14 proposed SMP investments, since they are proposals
15 for an integrated smart grid that involve smart
16 meters, relays, smart switches over multiple years,
17 we don't have the mix of labor versus equipment since
18 there can be synergies of installation or savings in
19 installation over a large scope or savings in
20 material.

21 Q But these are projects that you're
22 projecting that will take place in the fairly near

1 term, correct? I mean, starting in the fourth
2 quarter of this year and continuing into next year.
3 These are not figures that are projected out for,
4 say, 10 years from now?

5 A Correct.

6 Q Now, also in its response the company
7 states that it's not yet determined the mix of
8 contractor and bargaining unit labor to be used to
9 install the enhanced line isolating control project.

10 Is that still the company's position?

11 A Yes.

12 Q Has the company considered using contractor
13 labor to install this project?

14 A We will consider many factors on how to
15 complete a particular investment including use of
16 contractors.

17 Q And has the company compared the costs of
18 doing the work in house using bargaining unit labor
19 as opposed to using contractors?

20 A No.

21 Q And will the same team be responsible for
22 making decisions about use of contractors versus use

1 of bargaining unit laborers for this project as for
2 the ones we have talked about already?

3 A Yes.

4 Q Do you have a copy of ComEd Exhibit 36.1 in
5 front of you? This is associated with your
6 surrebuttal testimony.

7 A Yes, I believe I have it.

8 Q Can you explain what this is?

9 A At ComEd, we have some teams of employees
10 working to develop and to articulate investments in
11 smart grid technology as part of an overall smart
12 grid. So this represents a team meeting where we're
13 discussing some of the approaches to implementing a
14 smart grid.

15 Q So if I can just make sure I understand
16 you, this document reflects what happened at a
17 meeting of this particular team?

18 A Yes.

19 Q And that would be the technology strategy
20 team; is that correct?

21 A That's correct.

22 Q Could you please tell us who is on that

1 team?

2 A I don't have the list of names right now,
3 although I believe it may be attached to a particular
4 page. Page 6 I believe is some list. I'm not -- I
5 don't believe it may be exhaustive or include
6 everyone, but it's a list of names from different
7 groups that are working on the technology.

8 Q So the people listed in that box on Page 6
9 were involved with this team; is that correct?

10 A Yes.

11 Q But that may not be an exhaustive list of
12 all the team members; is that what your testimony is?

13 A Yes.

14 Q And was that team responsible for creation
15 of this document?

16 A Yes, I believe that's the case.

17 Q And was it created around April 10th, 2008?

18 A Yes.

19 Q What was the purpose of this document?

20 And I should just clarify my question,
21 separate from the purpose of the meeting because this
22 is -- obviously it's reflective of the meeting. But

1 what's the purpose of the document itself?

2 A In a general sense, the purpose of the
3 document is to provide an overview around smart grid
4 and more specifically technology to be utilized in a
5 smart grid. And some proposals -- actually, not a
6 proposal but some evaluation of a particular
7 technology and what the different benefits or pros
8 and cons of particular technologies may be.

9 Q So was one of the things accomplished by
10 this team an evaluation of the vendors who had
11 submitted bids with regard to the AMI implementation?

12 A I think part of this document does include
13 an evaluation of some of the technologies proposed by
14 some of the AMI vendors, and it also attempts to
15 structure a conversation around technology for
16 distribution automation leading to discussions on how
17 we can make both work at the same time thereby not
18 investing in technology that may only have a singular
19 use but have an integrated use for a smart grid
20 beyond the meter.

21 Q If I could just direct your attention to
22 pages 6 through 9 of this document?

1 MR. RIPPIE: I just note this is a
2 confidential --

3 MS. SKOLNICK: I understand that, yeah.

4 Q Do these pages 6 through 9 represent the
5 team's consideration of the various vendors that had
6 submitted bids?

7 A Yes.

8 Q In ranking these vendors -- I'm
9 sorry strike that.

10 Was part of this process of evaluation
11 also ranking the vendors?

12 A Yes, part of the evaluation involved
13 ranking or evaluating the technology proposed by some
14 of the AMI vendors as part of an RFI and how that
15 could be integrated into an overall smart grid. So
16 it was more around the technology evaluation.

17 Q So did ComEd in this particular evaluation
18 consider the costs associated with AMI
19 implementation?

20 A There is some reference to cost in the
21 evaluation.

22 Q That would be on Page 8; is that correct?

1 A Yes, the cost is shown there on Page 8.

2 Q And that was one of the criteria that was
3 considered in evaluating these vendors, correct?

4 A If I could expand...

5 Q Sure.

6 A The evaluation predominantly in this
7 particular framework was around the technology,
8 around how it meets certain criteria or
9 specifications as evidenced by the circles there,
10 whether they're filled in to some degree. The cost
11 there is listed.

12 What predominantly -- and without an
13 exhaustive kind of review or extensive review of this
14 document again, the analysis of the technology
15 predominantly is around its -- the technological
16 either pros and cons.

17 Q Okay. So the focus of this group was more
18 on the technology than on the economic aspects of it?

19 A Correct. The cost is listed there.
20 Certainly that's always a consideration. But the
21 focus of it was mainly on the technology and how that
22 could potentially be leveraged for distribution

1 automation in addition to AMI.

2 Q Would it be correct to say that there are
3 other ComEd teams that have focused more in
4 evaluating vendors on the economic aspects of their
5 proposals?

6 A There may be.

7 Q Do you know that as part of evaluation of
8 vendor costs has ComEd considered each vendor's labor
9 costs as part of that evaluation?

10 A No, I can't comment on that.

11 MS. SKOLNICK: Okay. I would like to move for
12 admission of IBEW Cross Exhibits 1 through 4, and
13 that concludes my questions for Mr. Donnelly.

14 JUDGE HILLIARD: Any objections?

15 MR. RIPPIE: No.

16 JUDGE HAYNES: IBEW Cross Exhibits 1 through 4
17 are admitted.

18 (Whereupon, IBEW Local 15
19 Exhibit Nos. Cross 1, 2, 3,
20 and 4 were admitted into evidence
21 as of this date.)
22

1 JUDGE HILLIARD: Next questioner, please.

2 Mr. Reddick.

3 CROSS EXAMINATION

4 BY

5 MR. REDDICK:

6 Q Mr. Donnelly, my name is Conrad Reddick and

7 I'm representing IIEC and I have very few questions

8 for you. I hope it will go quickly.

9 I want to take you back to the detail
10 of the bottom-up analysis that you discussed with
11 Ms. Lusson in your determination of costs for the pro
12 forma plant additions.

13 Do you recall that?

14 A Yes.

15 Q And I believe in your testimony you
16 indicated that your bottom-up analysis included an
17 assessment of engineering and operating needs
18 especially regarding the capacity expansion and new
19 business tasks that ComEd will have?

20 A I'm sorry. I didn't quite hear the full
21 question.

22 Q Consideration of engineering and operating

1 needs especially respecting the capacity expansion
2 and new business tasks that ComEd will have?

3 A Yes.

4 Q And you specifically considered ComEd's
5 work management and construction practices for the
6 installation of additions to its distribution system
7 in conducting that analysis?

8 A Yes.

9 Q Are there installations on the ComEd
10 distribution system where applicable safety codes for
11 the ComEd practices require installation of larger
12 facilities than would be necessary merely to meet the
13 demand of the customers that facility serves?

14 A Do you mind repeating the question.

15 Q Sure.

16 Are there installations on the ComEd
17 system place, location -- I'm not sure what the right
18 term would be -- where either ComEd's construction
19 practices or applicable safety codes would require
20 ComEd to install a larger facility than would be
21 needed simply to meet the demands of the customer
22 that facility serves?

1 A Predominantly our facilities are served to
2 meet the needs of the customer's demand. I'm not
3 recalling other specific criteria. There may be
4 reliability criteria that may warrant certain
5 installation of equipment to ensure reliable service
6 associated with that installation.

7 Q Does ComEd -- do ComEd's construction
8 practices take account of safety considerations?

9 A Yes.

10 Q And do ComEd's construction practices
11 comply with all applicable safety codes?

12 A Yes, they do.

13 Q And in circumstances where there is low
14 demand to be served by a particular facility, is it
15 possible that an applicable construction practice or
16 a safety requirement would require the installation
17 of a facility larger than what is required simply to
18 meet that demand?

19 A I can't think of one right now. It may be.
20 It very well may be. Just within the limits of your
21 question, I'm just trying to think of some examples.

22 Q Does ComEd have standard facilities that it

1 installs as residential service drops?

2 A Yes, we have residential service drops.

3 Q And do you use regularly certain size or

4 type of wire for that purpose?

5 A Yes.

6 Q Do you recall what it is?

7 A Not at the moment.

8 Q And for the typical residential

9 installation, the service drop, what level demand

10 would that facility be required?

11 A I'm sorry.

12 Q What level of demand would that facility be

13 required to serve?

14 MR. RIPPIE: Mr. Reddick, I don't believe this

15 relates to any of this witness's testimony. This

16 isn't about forecasting pro forma additions. You're

17 asking cost of service study questions about the size

18 of residential services. He has not testified on

19 this subject.

20 MR. REDDICK: The witness conducted a costing

21 exercise and he indicated how he came to those costs,

22 and I'm simply examining whether he considered what

1 we believe to be the correct things in coming to the
2 costs he presented.

3 MR. RIPPIE: The size of the wire used in a
4 residential service drop, I mean, you're welcome to
5 ask the foundational question and I won't object
6 whether he looked at the diameter of the wire in
7 considering how much the pro forma additions were
8 going to be but that's not what this subject is
9 about.

10 JUDGE HILLIARD: I think he's correct,
11 Mr. Reddick. If you try to address your questions to
12 his testimony, that would be a good idea.

13 MR. REDDICK: Q Would the size of the wire
14 affect the cost of the wire?

15 A Yes, the size of a wire would affect the
16 cost.

17 Q Did you take that into account when you
18 performed your costing exercise?

19 A I'm not sure what you're referring to as
20 the costing exercise.

21 Q Your pro forma additions costing exercise.

22 A In terms of did we take into account -- can

1 you restate --

2 Q The facilities that ComEd installs to serve
3 new customers.

4 A Yes. When we forecast or develop a work
5 plan to install certain equipment, we take into
6 account the size of that equipment, its specification
7 in order to deliver reliable and safe service.

8 Q You make certain assumptions about the
9 types of facilities that would be required for new
10 additions and for new business, correct?

11 A We size our facilities to meet the demand
12 requirements of our customers.

13 Q Do you know precisely what that demand will
14 be?

15 A No, I don't know precisely.

16 Q So you made some assumptions?

17 A I know by process that we -- throughout our
18 organization when new customers come on line, there
19 is some communication of what kind of demand or
20 equipment they would have at their facility, and then
21 our service representatives or designers would
22 interface with the customer to determine what types

1 of facilities we would install in order to meet the
2 load requirements or reliability requirements of the
3 customer.

4 Q And you did that individual customer type
5 exercise in developing your pro forma costs?

6 A No.

7 Q So you made some assumptions about typical
8 customers?

9 A We take into -- we made some assumptions
10 around large volumes of work that get completed on
11 our system.

12 Q And did you make those assumptions about
13 large volumes of work without taking into account the
14 cost of serving a typical customer or particular
15 type?

16 A We generally make some assumptions around
17 service connections to customers because we have some
18 large amount of connections that occur on our systems
19 due to growth. So to some degree, we make some
20 assumptions around that given the volume of that
21 activity.

22 Q And does that -- the assumptions that you

1 make take into account the facilities that would
2 typically be required to serve a particular type of
3 customer?

4 A Yes. In general, our assumptions take into
5 account typical facilities we may utilize to serve
6 customers.

7 Q Does ComEd have a standard set of
8 facilities that it associates with a particular type
9 of customer?

10 A It may vary. We look at trend data on
11 residential connections. Commercial connections can
12 be more specific to the amount of load than
13 requested.

14 Q Looking at the residential connections,
15 does ComEd have a standard set of facilities that it
16 uses in costing expanded service for residential
17 customers?

18 A I'll just admit I don't understand your
19 question. If you could restate it, that may be
20 helpful.

21 Q Does ComEd's tariff define standard
22 facilities for residential customers?

1 MR. RIPPIE: It's now plain that we're off
2 track. This witness testified to an aggregate new
3 business forecast that includes a number of
4 subtypes, and he explained in his testimony in detail
5 how it was developed. He has not talked about what
6 the specifics of ComEd's tariffs or standards of
7 service require to be installed at any particular
8 residential home. That is the subject of other
9 testimony, not his.

10 MR. REDDICK: Your Honor, the witness
11 specifically said in his testimony he used a
12 bottom-up analysis. I'm having difficulty getting to
13 the bottom. It appears maybe it's not a bottom-up
14 analysis. This is what I'm trying to investigate.
15 Mr. Rippie wants me to stop up here notwithstanding
16 the assertion that we're dealing with a bottom-up
17 analysis.

18 JUDGE HILLIARD: Well, I'll give you a little
19 bit of leeway here, but I don't think you're getting
20 much out of this guy.

21 MR. REDDICK: Q Are you familiar with the
22 standard facilities ComEd provides for residential

1 customer?

2 A Not in detail.

3 Q At what level did the cost come to you for
4 your assessment of your own personal experts?

5 A When we've forecasted additions, in
6 particular, say, new business connections, we look at
7 a couple of different things. One is high volume
8 connections that we perform year over year, so there
9 is some trending of that information around the
10 degree of which we connect new customers and high
11 volume numbers such as like thousands of residential
12 new business connections.

13 In addition, we may have larger
14 projects that may be related to new business that we
15 have more specific estimates tied to that particular
16 customer depending on its size and how unique that
17 particular customer is.

18 We would -- in terms of the
19 forecasting process, we'd combine those types of
20 estimates, whether it's high volume connections to
21 new business or unique projects of larger demand
22 where we have more specific facility data or capacity

1 additions on our system to build a bottoms-up
2 forecast.

3 Q Would it be fair to say that your bottom-up
4 analysis relied on large volume forecasts, unique
5 customer installations, and very high demand
6 installations?

7 A Our forecasts in a particular category
8 would involve those particular items and maybe more.

9 Q What more?

10 A Well, I just -- I'm not sure if that's an
11 exhaustive list, whether you're just talking about
12 new business or how we forecast, say, a capacity type
13 of job or a system improvement type of job or a cable
14 replacement job.

15 Q I believe I prefaced by saying we'd talk
16 about new business and capacity expansions.

17 A Okay.

18 Q So is there more with respect to those
19 categories than the high volume unique customer heavy
20 demand customer?

21 A In the new business area, just trying to
22 reexamine our process. It predominantly is our high

1 volume activity, some of our unique projects feeding
2 larger customers, and to some degree medium size
3 customers also get some degree of forecasting.

4 Q Is that the level at which the data came to
5 you for your consideration?

6 A The data came to me in generally that way;
7 estimates of high volume connections that we perform
8 every year, estimates of unique projects of high
9 demand, and estimates of not only residential but
10 commercial, say, medium sized project.

11 MR. REDDICK: Okay. Thank you. That's all.

12 JUDGE HILLIARD: Next questioner, please.

13 CROSS EXAMINATION

14 BY

15 MR. TOWNSEND:

16 Q Good morning, Mr. Donnelly. Chris Townsend
17 appearing on behalf of REACT.

18 Can you describe in layman's terms
19 what distribution losses are?

20 A Distribution losses on a power system
21 starts with energy from a particular point, and on
22 the journey of energy from the supply, whether it's a

1 generating station or a substation, goes through
2 certain equipment, wires, transformers, and breakers,
3 and there are certain losses along the way with that
4 energy. And that loss -- and then versus the final
5 energy consumed by the customer. So the difference
6 between, in a general sense, of what you start with
7 and what is consumed by the customer or billed to the
8 customer in general terms would be, say, system
9 losses.

10 Q Specifically distribution losses, how do
11 you characterize distribution losses versus system
12 losses?

13 A I would characterize distribution losses
14 mainly different than transmission losses under
15 certain definitions, whether it is in FERC or other
16 regulations, on the demarcation, say, between
17 transmission facilities and distribution facilities.
18 So distribution losses would be more specific to the
19 certain point where the distribution facilities come
20 into play all the way to the customer.

21 Q What are distribution loss factors, or
22 DLFs?

1 A Distribution loss factors is somewhat
2 encompassing. It includes a couple of different
3 things.

4 Losses tend to be -- there's a certain
5 amount of losses just due to load, the amount of
6 energy consumed. So losses would go up as you
7 consume more energy because you lose more heat and
8 dissipation in the grid.

9 There are a certain amount of losses
10 called core losses which just simply by energizing a
11 transformer, even with no load or customer load
12 connected, it consumes energy independent of the
13 amount of load.

14 Q But the factors is what I was trying to get
15 at.

16 How is it that ComEd uses the DLF, the
17 distribution loss factor in order to be able to
18 calculate distribution losses for particular clients?

19 A I believe there's submitted a methodology
20 on how we determine losses on the system and how we
21 allocate those losses to particular customers.

22 Q So each customer class has a different

1 distribution loss factor that you've applied to it,
2 correct?

3 A Yes.

4 Q Would you agree that when distribution loss
5 factors increase, the amount the customer pays
6 increases, all else being equal?

7 A Yes.

8 Q And an increase in the DLFs increases both
9 the customer's delivery services charges and its
10 energy charges, correct?

11 A How the loss -- how the distribution losses
12 actually make its way into rates, I would just defer
13 that as a question of rate design perhaps answered by
14 others.

15 Q Let me understand. If the applicable loss
16 factor is 5 percent and a customer uses 100 kWh, the
17 customer would be charged for 105 kWh, correct?

18 A I believe in our rate structure, that may
19 be the case. It would just be to confirm by others.

20 Q What benefit do customers receive when DLFs
21 are increased?

22 A Could you repeat the question, please.

1 Q What benefits do customers receive when
2 DLFs increase?

3 A I don't believe there will be any benefits
4 other than it reflects a cost of service.

5 JUDGE HILLIARD: Can I ask a question.

6 Is a DLF like a number that you have
7 so much power you're sending out, you multiply this
8 to determine how much is going to get to where it's
9 going or something of that nature?

10 THE WITNESS: Yes, your Honor, in that sense
11 predominantly correct.

12 MR. TOWNSEND: Q You didn't present any direct
13 testimony regarding DLFs in this case, did you?

14 A I don't believe I did.

15 Q Mr. Alongi and Ms. Jones in their direct
16 testimony originally proposed increased DLFs for the
17 extra large customers by 14.99 percent and the over
18 10 megawatt high voltage customers by 48.41 percent,
19 correct?

20 A Subject to validation.

21 Q Mr. Alongi and Ms. Jones did not explain
22 the basis for those proposed increases, did they?

1 A I don't recall. I don't know.

2 Q In rebuttal, ComEd adjusted the DLF

3 increases proposed for its high voltage customers,

4 correct?

5 A I don't recall.

6 MR. RIPPPIE: Which rebuttal testimony are you

7 referring to, Mr. Townsend?

8 MR. TOWNSEND: In ComEd's rebuttal testimony in

9 its case, Mr. Alongi testifies to it and then I

10 believe that Mr. Donnelly testifies to it in his

11 rebuttal --

12 MR. RIPPPIE: Mr. Donnelly testifies to the

13 engineering derivation of the DLFs. He does not

14 testify to the rate making.

15 MR. TOWNSEND: Q Do you not know whether or

16 not ComEd -- you actually testify about this change,

17 don't you, in your rebuttal testimony?

18 A Yes, I believe that's the case.

19 Q Okay. So ComEd now is proposing to

20 increase the DLFs for the extra large customers still

21 by 14.99 percent, correct?

22 A Subject to validation.

1 Q And would you accept subject to check that
2 ComEd is now proposing to increase the DLFs for the
3 high voltage customers by 35.56 percent?

4 A Yes, subject to check.

5 Q Would you be willing to accept subject to
6 check that the system average increase in the DLFs
7 that ComEd is advocating in this proceeding is 5.92
8 percent?

9 A Subject to check.

10 Q So the proposed increase for the extra
11 large customers is more than double the system
12 average if those numbers are correct?

13 A Mr. Townsend, yes, assuming those numbers
14 are correct.

15 Q And the proposed increase for the over 10
16 megawatt high voltage customers is 6 times the
17 proposed system average increase?

18 A Again, subject to validation or check.

19 Q Did ComEd consider simply increasing the
20 DLFs across the board by the system average increase?

21 MR. RIPPKE: Again, it's beyond the scope of
22 his testimony. He's testifying to the engineering

1 derivation of the distribution loss factors. He is
2 not testifying to rate making.

3 MR. TOWNSEND: It simply isn't true --

4 JUDGE HILLIARD: You can answer the question.

5 MR. TOWNSEND: Q Did ComEd consider simply
6 increasing the DLFs across the board by the system
7 average increase?

8 A My answer from my perspective is that in
9 the general knowledge we would not consider an across
10 the board increase because that becomes a matter of
11 rate making on how that's allocated, which some
12 others could testify to in terms of the actual rate
13 making allocation of those losses to particular
14 customer classes.

15 Q So you're not aware of ComEd considering
16 that option?

17 A To the extent that we are allowed to
18 consider that, I'm not aware of us considering that
19 option.

20 Q ComEd does not take issue with the DLF cost
21 impact analysis that Mr. Fultz presented in his
22 rebuttal testimony, REACT Exhibit 5, table 5, does

1 it?

2 A I don't recall.

3 Q Would you agree that ComEd's proposed
4 changes to the DLFs would increase the rates for
5 those customers by an excess of \$10,000 for the extra
6 large customers and in some instances an excess of a
7 hundred thousand dollars per year per customer?

8 A I don't have that information readily at
9 hand. It could be.

10 Q Would you be willing to accept that subject
11 to check?

12 A Subject to check, correct.

13 Q In your surrebuttal testimony at pages 27
14 to 30, you support the notion that a single
15 distribution loss factor should be applied to each
16 customer class, right?

17 A Could you refer me to the page, please.

18 Q 27 to 30. 27 to 29, actually.

19 A Okay. I have it here. Could you restate
20 your question.

21 Q You support the notion that a single
22 distribution loss factor should be applied to each

1 customer class, right?

2 A Yes.

3 Q You were critical of the proposal that

4 Mr. Fultz made where he suggested ComEd should make

5 an individual line loss calculation for each of its

6 high voltage and over 10 megawatt customers, right?

7 A Correct.

8 Q Would you accept subject to check that

9 we're only talking about 120 customers there?

10 A Yes, subject to check.

11 Q And your criticism, at least in part, is

12 based on a concept of fairness, right?

13 A Yes.

14 Q You testified that a fair judgment could be

15 made about allocation of these costs by class?

16 A Yes.

17 Q You contrasted that fair judgment by

18 applying a class wide distribution loss factor with

19 what you've described as an arbitrary approach of

20 calculating the loss factor individually for

21 individual customers, right?

22 A I'm sorry. Could you clarify that

1 particular question with arbitrary.

2 Q If you look at lines 579 to 581, you
3 suggest that the individual approach would be an
4 arbitrary approach, correct?

5 A Yeah. In testimony allocation of these
6 costs to individual customers is a much more complex
7 and arbitrary endeavor, referring to some of the
8 large amount of equipment that feed entire areas such
9 as synchronous condensers.

10 Q Now, that large equipment is allocated both
11 under your approach and under the approach that
12 Mr. Fultz has suggested, correct?

13 A I'm not -- the allocation of the
14 synchronous condensers?

15 Q Yes.

16 A Could you restate the question.

17 Q In both instances, the costs -- the losses
18 associated with that are applied, correct?

19 A I don't have the detail, at least I don't
20 recall right now in terms of the testimony you
21 provide. But the losses of the equipment in our
22 methodology does get allocated to customer classes.

1 Q Let's talk about what's fair and what's
2 arbitrary.

3 Can you agree with me as a general
4 proposition fairness means that a customer that's
5 responsible for some cost should have to pay for that
6 cost; that would be fair, right?

7 A In general if a customer is responsible for
8 a cost or involved in that cost, they should pay a
9 portion of that cost.

10 Q On the flip side, can you agree that as a
11 general proposition it would be unfair to make a
12 customer pay for costs that it doesn't cause?

13 A To the extent that the fairness question is
14 very subjective, I would only add that there are
15 certain system wide equipment that all customers or
16 large groups of customers are involved with in terms
17 of their loss stream which need to be allocated.

18 Q Because they're part of the system?

19 A Because they're part of the system.

20 Q But if there's a cost that a customer
21 doesn't cause, it would be arbitrary to assess that
22 cost to that customer?

1 A I wouldn't say arbitrary because there is a
2 methodology used for distribution loss factors
3 allocation to customer classes as articulated in our
4 rate design.

5 Q If you could specify that a cost was not
6 associated with a customer, wouldn't it be arbitrary
7 to assign it to that customer?

8 A I wouldn't say arbitrary. It would depend
9 on the methodology on how that cost is derived, and
10 it would be speculative to try to come to that
11 conclusion.

12 Q You state at lines 570 to 571 that
13 individual customer losses may vary significantly
14 depending on load flow patterns and on where a
15 customer is located relative to supply points.

16 Do you see that?

17 A Yes, I do.

18 Q So you recognize that customer line losses
19 vary based on various factors, right?

20 A Yes.

21 Q And that includes the potential for widely
22 varying customer line losses within the same customer

1 class, right?

2 A It could.

3 Q In fact, you testified that two customers
4 with identical volumes and patterns could have very
5 different DLFs, correct?

6 A Yes.

7 Q It's not just different DLFs. It's
8 actually different losses associated with the load
9 for that customer. Not just the multiplier; the
10 actual physics could be if one is losing more energy
11 than another, right?

12 A That's correct.

13 Q That can be substantial, correct? Within a
14 single customer class, you could have substantial
15 variances, right?

16 A Theoretically depending on where a customer
17 is connected. Substantial is somewhat subjective, so
18 it's hard to quantify that answer.

19 Q Very different is the phrase that you used.
20 Is very different different than
21 substantial?

22 A It could be very different.

1 Q Could be substantial, right?

2 JUDGE HILLIARD: This is not a discussion we

3 need to pursue.

4 MR. TOWNSEND: Q In your surrebuttal at lines

5 584 to 586, you point to a number of Commission cases

6 in which the Commission allowed ComEd to use customer

7 classes to increase DLFs, correct?

8 A Yes.

9 Q Did you review those orders?

10 A No, I did not personally review those

11 orders.

12 MR. TOWNSEND: I move to strike lines 583

13 through 586.

14 MR. RIPPPIE: Mr. Donnelly doesn't have to read

15 the orders to know that's what was accepted in the

16 cases.

17 MR. TOWNSEND: He doesn't have personal

18 knowledge.

19 MR. RIPPPIE: No. You asked him whether he

20 reviewed the orders --

21 MR. TOWNSEND: He cites the orders. He

22 didn't -- how can he possibly cite the orders in his

1 testimony if he didn't review them. Doesn't sound
2 like this testimony is based on anything that he did.

3 JUDGE HILLIARD: What's the basis of your
4 statement on lines 583 to 586, Mr. Donnelly?

5 THE WITNESS: I'm sorry, your Honor.

6 JUDGE HILLIARD: What is the basis of your
7 statement at lines 583 to 586 of Page 28 of your
8 surrebuttal testimony?

9 THE WITNESS: In general my basis for that
10 answer is that as I understand it the methodology of
11 allocating distribution loss factors has been used at
12 ComEd in prior years and/or in prior rate cases, and
13 the basis was that there -- our recommendation is to
14 continue to use that methodology of allocating losses
15 to different rate classes.

16 JUDGE HILLIARD: But in your testimony you cite
17 to certain cases and you said you haven't read those
18 cases, those orders. What's the source of your
19 knowledge that this is, in fact, the way it's done?

20 THE WITNESS: In general, your Honor, the
21 source of my knowledge is just in discussions on that
22 this methodology has been used in the past with

1 discussions with engineering staff, engineering --
2 legal counsel, and perhaps some other groups.

3 MR. RIPPPIE: Your Honor, I don't have any
4 problem if you strike the citations. I mean, the
5 citations are there to assist people. The basis of
6 his knowledge is, as he said, it's a general
7 understanding.

8 JUDGE HILLIARD: General knowledge, okay.

9 MR. TOWNSEND: You know what, I think the point
10 has been -- I don't need a ruling on it. That's
11 fine.

12 Q In any of those cases, did any party
13 propose that the Commission perform individualized
14 loss calculations?

15 A I don't know.

16 Q In your discussions with all those people
17 in coming up with your testimony, did anybody ever
18 mention anybody ever suggesting that an
19 individualized loss calculation be performed?

20 A In those prior cases?

21 Q Yeah.

22 A In those discussions, I don't recall that

1 being brought up.

2 Q In fact, in each of the orders that you
3 cited, the Commission noted that the DLF calculations
4 were not contested -- I'm sorry. You can't answer
5 that question. Never mind.

6 Has ComEd provided some new improved
7 service to justify its proposed increases in the DLFs
8 to the extra large and high voltage customers?

9 A No.

10 Q Has ComEd undertaken any infrastructure
11 improvements that would reduce the DLFs?

12 A Hard to answer with specificity. In every
13 year we invest a significant amount of investment in
14 capacity, substations that change to get power
15 substations closer to load centers. We may install
16 capacitor banks on the system which help in
17 mitigating system losses.

18 Q But in each of the rate cases, your DLFs
19 have increased, haven't they?

20 A They may have.

21 Q Have the over 10 megawatt and high voltage
22 customers done something to justify these substantial

1 increases?

2 A Not sure that they have done a particular
3 type of action.

4 MR. TOWNSEND: No further questions.

5 JUDGE HILLIARD: Who is next?

6 CROSS EXAMINATION

7 BY

8 MR. FOSCO:

9 Q Good morning -- it's good afternoon now.
10 My name is Carmen Fosco. I'm one the attorneys
11 representing staff. I have a few questions related
12 to your testimony about Rider SMP.

13 A Okay.

14 Q If you could refer to Page 3 of your
15 supplemental direct testimony. In there you indicate
16 that the system modernization projects cannot be
17 funded through normal means.

18 Do you see that at lines 51 and 52?

19 A Yes.

20 Q Do you have independent knowledge of that,
21 or are you just repeating what others have informed
22 you? I mean --

1 A I have independent knowledge of that from
2 my perspective as an -- from the perspective of
3 engineering and work plan judgments around what kind
4 of work we're performing now versus what kind of work
5 we're performing or proposing to perform in SMP.

6 Q Can you give me -- summarize for me the
7 basis for your statement that ComEd can't fund these
8 projects through normal means?

9 A Yes. Currently our investment plan has a
10 slate of projects and individual investments to serve
11 our customers.

12 The SMP -- the projects proposed in
13 SMP are not in our current expenditure plan, and our
14 capability of doing that work is not supported by our
15 current financial condition. Some the details of
16 that could be responded to by Mr. McDonald.

17 Given that there are large investments
18 to put a -- implement a smart grid over multiple
19 years that require additional stakeholder input,
20 we're looking to propose a different way of going
21 about these investments over and above the, quote,
22 normal investments we may make in terms of

1 infrastructure.

2 Q You mention the company's current financial
3 condition.

4 If this has been an earlier point in
5 time, would these types of projects have been
6 possible to be funded through normal means?

7 A It's difficult to speculate about that in
8 earlier points of time. Since I've been here, we
9 have not been -- we have not performed these types of
10 investments in an integrated way.

11 Q From your point of view, if the company is
12 granted a rate increase, may that change the
13 financial condition that forms the basis for your
14 statement?

15 A No. I think -- I don't think it changes
16 the basis for the projects proposed at SMP which are
17 a specific list of investments over multiple years.

18 Q Going on on that same page to line 56, you
19 discuss the need for the projects to be reviewed and
20 approved in advance.

21 Do you see that?

22 A Yes.

1 Q Other than Rider SMP, did you consider
2 other ways for these projects to be reviewed and
3 approved in advance?

4 A Yes, I would say in general we've
5 considered different ways.

6 Q Can you list those for me?

7 A The only one I would mention would be
8 considering performing these investments under
9 standard rate making process. And we chose proposing
10 the SMP given the nature of transforming the grid as
11 something different and warrants a different level of
12 dialogue with stakeholders in advance of making those
13 investments since they are integrated across many
14 assets and expenditures and we believe would be best
15 served to have dialogue up front around those before
16 embarking on those investments.

17 Q Anything else you can think of that was
18 considered?

19 A Not at this time.

20 Q So you didn't consider using a future test
21 year to your -- at least your consideration?

22 A I would defer some specific questions on

1 rate making options pursued perhaps to others that
2 would be testifying shortly.

3 Q Did you personally consider any other
4 mechanisms available under the Public Utilities Act
5 such as Section 8-503 to get prior Commission
6 approval?

7 A No.

8 Q At pages 5 and 6 of your supplemental
9 direct testimony, at least in the question there's a
10 reference to cost being -- going unrecovered between
11 rate cases.

12 Is that part of your testimony? Are
13 you offering testimony on cost going unrecovered
14 between rate cases?

15 It's actually on Page 6, line 113.
16 Starts on Page 5.

17 At this point I'm trying to understand
18 if that's part of your testimony or --

19 MR. RIPPPIE: It's part of the question. It's
20 background for his answer. You're quoting a
21 question, right?

22 MR. FOSCO: Correct.

1 Q Is it your position or is it your testimony
2 that there are unrecovered costs between rate cases,
3 or is that not something that you're testifying to?

4 A To the legal definition on whether I'm
5 testifying to a certain point -- part or not, I'm not
6 answering to.

7 In general I will state, you know,
8 apart from legal determination of testimony that in
9 the context of smart grid or SMP investments over
10 multiple years that are subject to lag in rate
11 recovery does have, in my knowledge, an issue of
12 unrecovered cost.

13 Q Is it your position that any investment
14 between rate cases generates unrecovered cost or just
15 that some particular investments?

16 A I can't comment with specifics.

17 Q At Page 26 of your supplemental direct at
18 lines 547 through 551, you testify that the smart
19 grid technologies are not immediately required to
20 maintain a basic level of electric utility service.
21 You further testify that ComEd could continue to meet
22 its obligation to provide safe, adequate, and

1 reliable service and comply with all applicable
2 minimum standards without investing in the smart grid
3 technologies.

4 What's the basis for those statements?
5 And I guess I'll say I heard your testimony earlier
6 with Ms. Lusson where you indicated you sort of
7 deferred any legal questions. So I'm not
8 understanding the basis for -- I want to understand
9 the basis for this statement.

10 A Okay. I think in general from my operating
11 experience, we could continue to provide basic levels
12 of service to our customers without investing in SMP,
13 and that's based on just general -- my own general
14 operating knowledge of the system.

15 Q Okay. Thank you.

16 Referring to your surrebuttal
17 testimony, ComEd Exhibit 36, Page 3.

18 A Surrebuttal Page 3?

19 Q Yes.

20 At lines 67 and 68 you testify that it
21 does not follow that simply because a service is
22 beneficial ComEd should be required to offer it. Do

1 you see that?

2 A Yes.

3 Q Would you agree that if you flip that
4 around, it's also true that just because a service is
5 beneficial it does not mean that ratepayers should
6 always be required to pay for it?

7 A Could you restate the question, please.
8 You said flip it around.

9 Q You made a statement about ComEd. You said
10 that -- your statement was it does not follow that
11 simply because a service is beneficial, ComEd should
12 be required to offer it.

13 My question is: Would you also agree
14 that just because a service is beneficial doesn't
15 mean that ratepayers should be necessarily required
16 to pay for it?

17 A Yes, in a general sense.

18 Q On Page 4 of your surrebuttal testimony at
19 lines 76 to 77, you are talking about the goals to be
20 achieved through these technologies and you state
21 that achieving these goals does not, however, require
22 ComEd to be denied the ability to recover its costs

1 of implementing these technologies.

2 Can you explain to me what you mean or
3 how ComEd would be denied the ability to recover its
4 cost?

5 A In general the basis for that answer is
6 that what we are proposing in SMP, our investments in
7 technology and advanced equipment that are
8 substantial and require significant investment outlay
9 and that given the nature of those types of proposed
10 investments over multiple years, we would feel it
11 would be best as proposed in SMP to have up-front
12 discussions on proceeding with those investments on
13 the system because of the risk to ComEd in terms of
14 laying out the investment to make those investments.

15 Q So would you agree it's not so much that
16 you're concerned about costs being denied but it
17 sounds like you're testifying that ComEd wants more
18 certainty, more up-front certainty as to how these
19 costs are to be treated?

20 A Given the fact that SMP represents
21 something different that the industry is actually
22 proposing to do for the system, we do want some

1 up-front dialogue on what we're proposing so we have
2 a degree of certainty that we're proceeding down a
3 path that incorporates the feedback and input from
4 Commission personnel as well as staff or other
5 stakeholders.

6 Q Slightly further down on that same page, at
7 line 79 to 80 you talk about the notion that putting
8 ComEd at risk of after the fact disallowances where
9 ComEd invests in successful technologies but has been
10 financially penalized for doing so forcing ComEd to
11 suffer at lag does not promote the development of an
12 effective, efficient, interoperable smart grid.

13 Would you agree that if the Commission
14 were to deny recovery of costs that it found not to
15 be prudently incurred, that would not be a penalty,
16 would you agree?

17 A I'm not commenting on definition of
18 prudent. In the context of your question, yes.

19 Q Okay. You've testified at various points
20 in your testimonies about the benefits and cost of
21 the various SMP projects. Is it your testimony
22 that -- strike that.

1 Can you agree with me that there's two
2 categories of benefits, financial and then
3 nonfinancial, such as system reliability is not
4 necessarily a financial benefit; would you agree?

5 A Yes, there are benefits that are
6 reliability that don't easily convert to dollars.

7 Q Is it your testimony that the benefits to
8 which a dollar value can be placed upon exceed the
9 cost?

10 A I'm sorry. Could you repeat that.

11 Q Sure.

12 Is it your testimony for the SMP
13 projects that you testified about that the benefits
14 to which a dollar value can be assigned exceed the
15 cost that ComEd has estimated?

16 A In reviewing the SMP projects, if you're
17 saying am I testifying that the benefits of those
18 projects exceed the cost?

19 Q Correct. The financial benefits, yes. In
20 each case, do the financial benefits exceed the
21 financial cost?

22 A The financial benefits -- in my knowledge

1 of the SMP projects, the financial benefits do not
2 exceed the cost.

3 Q On what basis then do you recommend that
4 those costs be imposed upon the customers of ComEd?

5 A I think, and what we're proposing in
6 general, there are many projects that can be
7 beneficial for customers where the benefits or
8 immediate benefits may not exceed the cost of that
9 investment and that they can be invested or performed
10 on the grid for the benefit of customers.

11 Q Is there a specific criteria that you would
12 use to make that determination or -- that's my
13 question. Is there a specific criteria?

14 A Again, what we proposed in SMP, as we
15 proposed these projects and investments and what we
16 feel the benefits of those projects and investments
17 are, it's precisely by having an SMP that we envision
18 some up-front discussions with ICC and other
19 stakeholders around a clear understanding of the
20 benefits, what they are, what the nonfinancial
21 benefits might be, and how those projects will
22 proceed so that we can have a collaborative process

1 before we proceed down that path.

2 Q Okay. Is that your understanding now that
3 there will be -- ComEd's withdrawing the projects for
4 approval in this docket to be considered in a
5 collaborative?

6 A Yeah, I -- the list of projects that we've
7 proposed in SMP, I believe we believe are -- have
8 clear benefits to customers, and certainly they have
9 costs. However, we have stated that if there are
10 other concerns around the nature of those investments
11 and needing a clear understanding of those
12 investments, then we have agreed to recommend --
13 respectfully recommend the Commission approve the
14 rider in terms of the mechanism to have the dialogue
15 for the projects and then withdraw the projects and
16 then have that go through a workshop process that --
17 and I know we've agreed to that or we can agree to
18 that.

19 Q Final question.

20 In your opinion, what is it that makes
21 the system modernization -- let me ask it this way.

22 Is it your testimony that there is

1 something particular about system modernization
2 projects that makes them appropriate for rider
3 recovery?

4 A Yes.

5 Q My follow-up question is: Can you describe
6 what makes system modernization projects unique or
7 appropriate for rider recovery?

8 A In my opinion from my position, I believe
9 system modernization investments are unique and
10 warrant some different process of engagement as
11 proposed by ComEd with Rider SMP for a couple of
12 reasons.

13 One, they involve multiple year
14 investments over a range of equipment and
15 technologies in an integrated approach in order to
16 establish a smart grid and provide benefits to
17 customers.

18 I believe that type of investment of
19 that scale and of that integration of all the parts
20 working together for value is different than what I
21 might call traditional investment to connect new
22 business customers to install new substations or

1 construct new lines.

2 Q Okay. If ComEd were able to invest in
3 those technologies, would the need to recover those
4 costs through a rider end at some point in time?

5 A I can't speculate at that point.

6 Q Okay. Thank you.

7 You mentioned workshops,
8 collaboratives as something to consider. Would you
9 agree that workshops or collaboratives do not
10 necessarily require a rider recovery mechanism to be
11 held? They're sort of independent of that issue?

12

13

14 (Change of reporters?)

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1 A They may be, but we're recommending that
2 they are part of the Rider recommendation.

3 We had to approve the Rider with the
4 workshop process, as far as our recommendation on how
5 we would view the workshop.

6 MR. FOSCO: Thank you.

7 No further questions.

8 JUDGE HILLIARD: Next questioner?

9 MS. SODERNA: CUB no longer has cross of this
10 witness.

11 JUDGE HILLIARD: How wonderful.

12 BOMA?

13 MR. MUNSON: BOMA has no cross of this witness.

14 JUDGE HILLIARD: Any redirect?

15 MR. RIPPIE: Your Honors, I hate to ask, but
16 can I have about 90 seconds?

17 JUDGE HILLIARD: Sure.

18 MR. RIPPIE: Thank you, your Honors.

19 REDIRECT EXAMINATION

20 BY

21 MR. RIPPIE:

22 Q Mr. Donnelly, I believe I only have one

1 question for you.

2 During the discussion of the Pro Forma
3 capital additions, you indicated, as you did in your
4 prefiled testimony that possible variances could
5 occur in categories.

6 Based on the most recent data that you
7 have, do you have any reason to believe that those
8 variances in total would exceed the limits or the
9 degree to which you've already testified to in your
10 prefiled testimony?

11 A No.

12 MR. RIPPIE: Thank you.

13 JUDGE HILLIARD: Thank you, Mr. Donnelly,
14 you're excused.

15 (Whereupon, the witness
16 was excused.)

17 JUDGE HAYNES: Let's break for lunch.

18 (Whereupon, a lunch recess was
19 taken.)

20 JUDGE HILLIARD: Let's get started.

21 MS. DALE: I'm Janice Dale from the Office of
22 the Attorney General on behalf of the people of the

1 State of Illinois.

2 (Witness sworn.)

3 DAVID J. EFFRON,

4 called as a witness herein, having been first duly

5 sworn, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY

8 MS. DALE:

9 Q Good afternoon, Mr. Effron.

10 Could you please state your full name

11 and business address for the record.

12 A Yes, my name is David J. Effron.

13 My business address is 12 Pond Path,

14 North Hampton, New Hampshire 03862.

15 Q Mr. Effron, on whose behalf are you

16 testifying here today?

17 A I'm testifying on behalf of the People of

18 the State of Illinois, represented by the Attorney

19 General and the Citizens Utility Board.

20 Q I'm have in front of you what's been marked

21 the Direct Testimony of David Effron, which consists

22 of 31 pages of testimony, 13 pages of Schedules A

1 through D, currently marked AG/CUB Exhibit 1.1. The
2 Direct Testimony being marked AG/CUB Exhibit 2.0.

3 I also have AG/CUB Exhibit 5.0, the
4 Rebuttal Testimony of David Effron consisting of 30
5 pages of testimony, 20 pages of schedules marked
6 AG/CUB Exhibit 5.1 and 5.2 and 5.3, and Exhibit,
7 AG/CUB Exhibit 8.0, which is the Supplemental
8 Rebuttal Testimony of David J. Effron, consisting of
9 seven pages of testimony, 17 pages of Schedules A
10 through C marked AG/CUB Exhibit 8.1.

11 Do these exhibits represent your
12 Direct, Rebuttal Testimony, and Surrebuttal Testimony
13 in this case?

14 A Yes.

15 Q And were they prepared by you and your
16 supervision?

17 A Yes, they were.

18 Q Do you have any changes to make to this
19 testimony at this time?

20 A Yes, I have a couple of brief changes that
21 I would just like to run through.

22 First, the Exhibit accompanying my

1 direct testimony, which is marked as AG Exhibit 1.1
2 should actually be AG Exhibit 2.1 on each of the
3 schedules included in that exhibit.

4 On that exhibit now, 2.1, my
5 Schedule B, Footnote 3, the reference should be the
6 response to Staff Data Request JMO 5.02.

7 JUDGE HAYNES: Wait a minute.

8 THE WITNESS: On my Schedule B, which had been
9 AG Exhibit 1.1, now AG Exhibit 2.1, Schedule B
10 Source 3, Footnote 3, the reference should be to the
11 response to Staff Data Request JMO 5.02.

12 The next correction I have is in my
13 rebuttal testimony, Exhibit 5.0, Page 11, Line 7.

14 The docket there should be 01-0423,
15 and also on that same page on Line 9, the Docket No.
16 Should be 01 -- let me start again -- Docket No.
17 Should be 01-0423.

18 And last, Page 20 of the same exhibit,
19 Exhibit 5.0, Page 20 at Line 18, there is a word
20 there "not," that is the fifth word from the end of
21 the line, that "not" should be stricken.

22 BY MS. DALE:

1 Q Are those all your changes?

2 A Yes, they are.

3 Q If I were to ask you the same questions

4 contained in your testimony today, would your answers

5 be the same?

6 A Yes, they would.

7 Q Is the information contained in your

8 testimony and attached exhibits and schedules true

9 and correct to the best of your knowledge and belief?

10 A Yes, it is.

11 MS. DALE: I move for submission into evidence

12 AG/CUB Exhibits 2.0, 2.1, 5.0, 5.1, 5.2, 5.3, 8.0,

13 and 8.1, and tender Mr. Effron for cross-examination?

14 JUDGE HAYNES: Is there any objections.

15 (No response.)

16 Hearing none, those exhibits are

17 entered.

18 (Whereupon, AG/CUB Exhibit

19 Nos. 1.1, 2.0, 5.0, 8.0 and 8.1

20 were admitted into evidence.)

21 MR. FOSCO: Staff has a few questions.

22 JUDGE HAYNES: Okay.

1 CROSS-EXAMINATION

2 BY

3 MR. FOSCO:

4 Q Good afternoon, Mr. Effron. My name is

5 Carmen Fosco. I represent Staff.

6 A Good afternoon, Mr. Fosco.

7 Q Could you please turn to your Rebuttal

8 Schedule C2. And are you there?

9 A Yes, I am there.

10 Q Thank you.

11 The last item in your list of

12 adjustments to operation and maintenance expense is

13 administrative and general expense; is that correct?

14 A Yes.

15 Q And does this adjustment refer to the

16 adjustment you sponsored in your direct testimony

17 concerning ComEd Accounts 920 to 923?

18 A That's correct, yes.

19 Q Okay. Now, you don't present any

20 narrative rebuttal testimony concerning this

21 adjustment, correct?

22 A That's correct.

1 Q You still do advocate that position; is
2 that correct?

3 A Yes, I'm just standing on my direct
4 testimony without any more substantive testimony in
5 my rebuttal.

6 Q Other than what you just said about
7 standing on your direct testimony, was there any
8 other reason that you didn't address this issue any
9 further on your rebuttal testimony?

10 A Actually, I had nothing more to say.

11 MR. FOSCO: Okay. Thank you.

12 We have no further questions.

13 MR. STAHL: Good afternoon, your Honors. I
14 don't believe I had entered my appearance yet today
15 either. David Stahl, Eimer, Stahl, Klevorn &
16 Solberg, appearing on behalf of Commonwealth Edison
17 Company.

18 I have asked the reporter to mark a
19 number of exhibits. May I tender a copy of these to
20 the judges at this time, at least some of those I'm
21 going to use. I've given a copy to staff and the AG,
22 as well.

1 I have other copies here, if anybody
2 would like to take a copy.

3 CROSS-EXAMINATION

4 BY

5 MR. STAHL:

6 Q Good afternoon, Mr. Effron.

7 We have met a long time ago, as I
8 recall.

9 Mr. Effron, I have a number of
10 subjects I would like to talk to you about today.
11 The first one being the A&G, the administrative and
12 general expense adjustment that you recommend in your
13 direct testimony.

14 And if I could summarize that briefly,
15 as I understand it, what you are saying is that ComEd
16 is seeking to recover about \$35.8 million more in A&G
17 costs attributable to Accounts 920 and 923 than was
18 allowed by the Commission's order in Docket 05-0597;
19 is that correct?

20 A That's roughly correct, yes.

21 JUDGE HILLIARD: And A&G means what, Counsel?

22 MR. STAHL: Administrative and general.

1 BY MR. STAHL:

2 Q And you are saying that that amount is
3 substantially in excess of growth that could be
4 explained by normal inflation, and has not been
5 otherwise explained; is that correct?

6 A Yes, not otherwise explained in a way that
7 I thought justified the increase.

8 Q So it has been explained, but in a way that
9 you think is insufficient is that now what you are
10 saying?

11 A You could characterize it that way.

12 Q That's not what you said in your direct
13 testimony, though, was it?

14 A Can I have a moment.

15 Q Well, Mr. Effron, it's not important to --

16 A It might not be exactly what I said, but I
17 think that was the gist of what I said in the
18 testimony.

19 Q All right. Now, you also say in your
20 testimony, this is at Lines 627 to 630 of your direct
21 testimony that much of the increase is attributable
22 to changes in executive services, changes in other

1 practice areas and other general increases; is that
2 correct?

3 A Yes.

4 Q And I have put in front of you a ComEd
5 Cross-Exam Exhibit, which I believe is Exhibit 1,
6 ComEd Cross-Exhibit 1 is this one page, little chart.

7 Do you have that in front of you?

8 A I believe I do.

9 Q This is something that I prepared based on
10 ComEd Exhibit 7.3, corrected.

11 You're familiar with that document,
12 aren't you?

13 A It's been a while, but I did review it.

14 Q You're free to examine 7.3 corrected if you
15 like, but I would like to represent to you that the
16 numbers that I have put on this summary are taken
17 directly from ComEd Exhibit corrected 7.3.

18 Are you willing to accept that at
19 least for purposes of this discussion?

20 A For the purposes of going forward, sure.

21 Q I will also tell you I have not included on
22 here any amounts less than \$1 million just for sake

1 of simplicity.

2 You would agree looking at this
3 exhibit, Mr. Effron, that really the big changes in
4 the Accounts 920 through 923 are not those you
5 identified in your testimony, but rather changes in
6 IT costs and changes in EDSS, which for the record is
7 electric delivery services.

8 Do you know what EDSS is, Mr. Effron?

9 A I believe it's electric distribution system
10 services.

11 Q That sounds about right.

12 DDSS, those are the two categories
13 that account for most of the changes in these two
14 accounts; are they not?

15 A Well, just looking at it, the change in the
16 IT cost just looking at the numbers roughly, looks
17 like it's about 12 million.

18 I believe my testimony, I said I
19 thought about 11.6 million of that had reasonably
20 been explained, so I guess a raw number, it's large,
21 but, again, I think I acknowledge that that would
22 properly explain, the EDSS, if you met the two

1 numbers, it's about \$5 million.

2 So I would say that's not
3 insignificant, but the numbers are what they are, and
4 that's what accounts for the increases.

5 Q All right. At the end of the day, you
6 recommend an adjustment of about \$12.4 million in
7 these three accounts, correct?

8 A Yes, that's correct.

9 Q And these three accounts are only a, what,
10 about a quarter of all of the A&G expense accounts on
11 the ComEd books?

12 A I don't have that in front of me, but -- if
13 I could have a moment.

14 Q It will be in the record, you don't, unless
15 you want to, have to check.

16 A If I could just check for reasonableness of
17 that. We can accept that going forward.

18 Q And in your testimony, you did not identify
19 any particular expense within that 12.4 million that
20 in your view is either imprudently spent or
21 represents an unreasonable expenditure; is that
22 correct?

1 A I'm not challenging that on the grounds of
2 prudence, that's correct.

3 Q You're just saying it exceeded inflation.

4 You're aware that in a final order on
5 rehearing in Docket 0597, the Commission rejected an
6 inflation-based adjustment to operating and
7 maintenance and administrative and general expenses?

8 A I generally recall that.

9 Q And aside from the fact that the Commission
10 has already rejected this kind of adjustment, the
11 fact of the matter is that as of the time you filed
12 your direct testimony in February of this year,
13 ComEd, in fact, had explained all of the increases
14 that are set forth on this Exhibit No. 1; had it not?

15 A They put together, I would call more
16 descriptions for the reasons of the changes, than
17 explanations.

18 For example, they say executive
19 services increase because of higher executive
20 compensation, I guess, that's -- yeah, you're
21 explaining the increase, but I'm not sure that's
22 justifying the increase.

1 Q Well, you didn't challenge any part of that
2 increase on prudence or reasonableness grounds, as
3 you just testified; isn't that correct?

4 A I did not challenge it on the grounds of
5 prudence, that's correct.

6 Q Yeah, and, in fact, by the time you had
7 filed your direct testimony, ComEd had filed
8 extensive data request responses in response to
9 requests propounded by the Staff in this case that
10 fully explained everything on Exhibit 7.3.

11 And I will refer you to the document
12 that I believe has been marked as ComEd
13 Cross-Exhibit 2, which is a series of responses
14 beginning with the Response to Request DLH 10.03.

15 Do you have that in front of you?

16 A I do, yes.

17 Q Have you ever seen those before today,
18 Mr. Effron?

19 A Yes.

20 Q They're dated, November 14, 2007 about
21 three months before your direct testimony in this
22 case, correct?

1 A Yes.

2 Q And the very first page of this data
3 request refers to the executive service charges that
4 you just alluded to in your prior answer, does it
5 not? And the request is fully described what
6 executive services charges are, and then there's a
7 response, correct?

8 A Are we referring to 10.0 -- response
9 to 10.03.

10 Q 10.03, yes, sir, 10.03-A, in particular.

11 A It explains what is included in the
12 executive services, yes.

13 Q Yeah. And you did not at any time
14 propound any follow-up data requests to this request,
15 did you?

16 A I don't recall having done so.

17 Q Well, I tried to find all of the data
18 requests that you did propound in this case,
19 Mr. Effron, and I've marked them as what I believe is
20 and hope is ComEd Cross-Exhibit 3, which the cover
21 page of which is November 13th letter from your
22 counsel addressed to Mr. Rippie.

1 Do you have that in front of you?

2 A I do not.

3 Q You do not?

4 A I don't see it.

5 Q Mr. Effron, ComEd Cross-Exhibit No. 3, can

6 you identify that as a series of data requests that

7 you or your counsel propounded on ComEd in this case?

8 A It's incomplete, but it seems to be.

9 Q You think there are others that you

10 propounded that are not in there?

11 A Yes.

12 Q I was not able to find them.

13 A If you look at the series of numbers here,

14 maybe I'm missing a page of what you gave me. But

15 there was a 10th set, and the first one in the 10th

16 set was 10.9. I know for a fact there were eight

17 before that. I'm not seeing them immediately.

18 Q Can you confirm for me that, at least in

19 that set that I've given you today, there is nothing

20 that relates to ComEd Exhibit 7.3 or the cost

21 increases shown on 7.3?

22 A I'm just going through it. If I could

1 have a moment.

2 It doesn't refer to that explicitly,
3 but I'm looking at No. 31 in the first set, and that
4 asks for changes in expenses charged from accounts in
5 2005-2006 in Accounts 920, 923.

6 The next one asks for analysis of
7 charges to Accounts of 923.

8 So it doesn't refer to 7.3, but I
9 think it covers some of the same material that is
10 included in 7.3.

11 Q And when you got answers to these requests,
12 you never complained to ComEd that they were
13 inadequate or insufficient or required further
14 information, did you?

15 A I don't recall having communicated directly
16 with ComEd during the course of this case, no.

17 Q Nor did your counsel, to the best of your
18 knowledge, correct?

19 A You'd have to ask them.

20 Q Mr. Effron, after Ms. Houstma and Ms. Frank
21 filed their rebuttal testimony, you did not say
22 another word about this Account 920, 923 Adjustment

1 in your rebuttal testimony, did you?

2 A I believe I stated as much to Mr. Fosco
3 that's correct.

4 Q Correct.

5 Now, let's talk about rate case
6 expenses a little bit, Mr. Effron.

7 We are talking about three different
8 categories of rate case expenses here, are we not,
9 the first one being the amount that the Commission
10 allowed in its final order of Docket 0597, an amount
11 which was to be recovered over three years.

12 Do you recall that?

13 A I recall that, yes.

14 Q That was about \$7 and a half million,
15 correct?

16 A I'll accept that, subject to check, yes.

17 Q You're aware, are you not, that the final
18 order on rehearing in 0597 has not been changed or
19 modified by the Commission in any way?

20 A Not to my knowledge.

21 Q And would you also agree that, as we are
22 sitting here today, the Company has not recovered the

1 \$7 and a half million in costs through rates that the
2 Commission authorized in its order in December of
3 2006?

4 A The recovery would not be complete, yes.

5 Q As a matter of fact, by the time the rates
6 authorized in this case go into effect, those rate
7 case costs would not have been recovered either, will
8 they?

9 A Not completely.

10 Q And under your approach that you espouse in
11 this case, those costs will never be recovered, will
12 they?

13 A That would be a symmetrical treatment to
14 what happens when the rate case is longer than the
15 amount that is allowed for the recovery period.

16 That would be an over-recovery in that
17 situation, in this instance that would be an
18 under-recovery. The situation would be symmetrical.

19 Q The answer to my question, however, is,
20 Yes, Mr. Stahl, they will not be recovered as of the
21 time the rates authorized in this case --

22 MS. DALE: I'm going to object.

1 JUDGE HILLIARD: Sustained.

2 BY MR. STAHL:

3 Q The answer is "yes," is it not, Mr. Effron?

4 A My answer is what it was.

5 In this particular instance, because
6 the time for rate cases was less than the
7 amortization period that was chosen and would not be
8 completely recovered by the time new rates go into
9 effect.

10 Q And the situation you just talked about,
11 the symmetrical situation, which you also refer to in
12 your rebuttal testimony, that is a hypothetical
13 situation? It's not an actual situation that we're
14 dealing with here in this case; isn't that correct?

15 A By definition we are not dealing with it in
16 this case.

17 Q Right.

18 A But if it was a word that you just
19 described in the hypothetical situation, then I'm
20 quite confident it wouldn't come up.

21 Q And --

22 A That was my direct testimony, by the way.

1 Q Okay. Was it your direct testimony? Okay.

2 That's fine.

3 That other situation that you're
4 concerned about, that concern could be mitigated by
5 changing the normalization period or the period over
6 which those rate case costs are recovered if it were,
7 in fact, believed that the next rate case wouldn't be
8 for five years, the rate case expenses should be
9 normalized over five years and not three years,
10 correct?

11 A If we could predict the future with
12 certainty, that's correct.

13 Q Now, the other costs you seek to disallow
14 in the rate case expense category are, first of all,
15 the costs that were incurred in connection with
16 Docket 0597 before the rehearing was granted,
17 correct?

18 A That sounds right, yes.

19 Q And the total of those costs is about \$3.1
20 million, and the Company is seeking to recover those
21 over three years, correct?

22 A That's correct, yes.

1 Q And the other category that you're seeking
2 to disallow are the costs incurred by the Company in
3 connection with the rehearing that was granted in
4 that case, correct?

5 A That's correct, yes.

6 Q That's about a \$2.1 million, again,
7 normalized over three years?

8 A Correct.

9 Q It is clear, is it not, Mr. Effron, that
10 both of those categories of costs were incurred in
11 the test year in this case, 2006?

12 A I believe they were incurred in the test in
13 year 2006, yes.

14 Q And it is also true, is it not, that the
15 sole reason why you are saying those costs should not
16 be recovered in this case is because to allow
17 recovery would, in your view, constitute retroactive
18 ratemaking; is that correct?

19 A It would be allowing retroactive cost for
20 prospective recovery, yes.

21 Q Now, once again, this is an issue that you
22 don't discuss in your rebuttal testimony at all; is

1 that correct?

2 A That's correct.

3 Q Is that because you think you said

4 everything there is to say on the subject?

5 A I think in my direct testimony, I said what

6 I felt had to be said, yes.

7 Q All right. Now, again, you haven't

8 identified any of those costs as having been

9 imprudent or unreasonable, correct?

10 A That's correct.

11 Q And you understand that in this case, ComEd

12 is not seeking recovery of those costs under some

13 theory that in 2006 its rates were too low?

14 A As far as I know they're not, that's

15 correct.

16 Q You have not, in any of your testimony in

17 this case, cited any Illinois authority case,

18 Commission case, any kind of precedent at all for the

19 proposition that recovery of test year costs in rates

20 to become effective in the future, constitutes

21 retroactive ratemaking, have you?

22 A I didn't cite any Commission orders in

1 there.

2 Q And you didn't cite any Commission orders
3 because you're not aware of any Commission order or
4 court case that says that a test year cost to be
5 recovered in the future through rates constitutes
6 retroactive ratemaking?

7 A I have not researched that.

8 I think it's pretty a well-accepted
9 principle, though, if a cost was incurred
10 retroactively, and is not going to be a cost that is
11 incurred on a continuing basis, that is not included
12 in the determination of prospective rates.

13 Q Well, there are all kinds of ways to deal
14 with costs incurred that may or may not be incurred
15 in the future, but it has never been the case that
16 those costs have been disallowed, at least in
17 Illinois, because it constitutes retroactive
18 ratemaking? You know that, don't you, Mr. Effron?

19 A Like I said, I did not research that. I
20 don't know if it would be disallowed.

21 Q In fact, if anything constitutes
22 retroactive ratemaking in your proposal, it would be

1 your original proposal to disallow the unrecovered
2 costs from the 0597 case, the unrecovered portion of
3 \$7.5 million, that would be retroactive ratemaking,
4 as Illinois defines it? Would you agree?

5 A I have not seen any definition that would
6 support that kind of conclusion, no.

7 Q Did you participate in the Peoples Gas case
8 Docket 07-0241?

9 A Yes.

10 Q You testified in that case?

11 A Yes. I think Peoples Gas case was
12 actually 07-0242.

13 Q Whatever.

14 There is a -- do you recall there was
15 an issue in that case about retroactive ratemaking
16 and whether Rider VBA constituted retroactive
17 ratemaking?

18 A I do not, as I sit here, no.

19 Q And do you know that the Commission
20 ultimately concluded that Rider VBA did not
21 constitute retroactive ratemaking?

22 A If that's what the order says, that's what

1 it says.

2 As I said, as I sit here I did not
3 participate in that issue in that case, and I don't
4 recall the Commission's ruling as to whether it was
5 retroactive ratemaking --

6 Q You have, I believe, in front of you,
7 Mr. Effron, an excerpt, two pages from the
8 Commission's final order in the Peoples case that
9 should be marked ComEd Cross-Exhibit 4.

10 It's Pages 144 and 145. Can you turn
11 to Page 145 there.

12 A I think you assumed a fact not in evidence
13 there. I don't have them in front of me.

14 Q Mr. Effron, you could turn to Page 145.
15 There's a discussion there about Rider VBA, and on
16 Page 144, it says, "Analysis."

17 And it says: "Upon careful
18 and studied consideration -- "

19 Reading from the very first full
20 paragraph on Page 145. Do you see that?

21 A Yes.

22 Q "Upon careful consideration

1 the Commission concludes, that
2 Rider VBA presents no violation
3 against the rule of retroactive
4 ratemaking."

5 And then it gives an explanation.

6 "Rider VBA does not disturb
7 either this order or any of the
8 Commission's prior orders."

9 MS. DALE: I'm going to object. I don't see
10 what the relevance of this, the Commission's
11 discussion of Rider VBA in another case, has to do
12 with Mr. Effron's testimony.

13 Furthermore, he's not an attorney.
14 He can't comment on the legal analysis contained
15 herein.

16 MR. STAHL: He did express in his testimony the
17 view that the only reason he is disallowing recovery
18 of the unrecovered portion of the \$7 and a half
19 million in rate case expenses from 0597 is because to
20 allow recovery would constitute retroactive
21 ratemaking. He testified so today on
22 cross-examination.

1 I'm simply asking him if he is
2 familiar with the Commission's careful and studied
3 determination no more than two-and-a-half months ago
4 of what constitutes retroactive ratemaking, and I
5 think what the Commission said here is flatly
6 inconsistent with his view of retroactive ratemaking
7 because the Commission says as long as it doesn't
8 disturb a prior order or is stated in the next
9 sentence disallow charges or benefits previously
10 ordered, it wouldn't be retroactive ratemaking.

11 Mr. Effron's recommendation is
12 precisely to disallow charges or benefits previously
13 ordered by the Commission.

14 JUDGE HILLIARD: Sustained.

15 BY MR. STAHL:

16 Q Mr. Effron, let's stalk about plant and
17 service.

18 There's
19 an issue in this case about how much ought to be
20 allowed for Pro Forma additions, correct?

21 A Correct.

22 Q All right. And you in your testimony

1 allow Pro Forma plant additions through September 30,
2 2008, correct?

3 A I did not challenge the Company's proposal
4 to recognize additions through September 30, 2008 in
5 my testimony.

6 Q And you recognize that that time period, at
7 least in the context of this case, is one that is
8 allowed by the Commission's Pro Forma Rule 287.40?

9 A Yeah, otherwise, I probably would have
10 challenged it.

11 Q Okay. And the amount of the Pro Formas
12 that you will allow through September of 2008 is
13 based on two months actually experience in 2008 and
14 then what you consider to be the actual experience in
15 2007, as well, correct?

16 A Well, it's the cumulative actual experience
17 through February of 2008 and then a forecast of
18 additions after that date.

19 Q And the reason you use the prior experience
20 in 2007 is because I think you say in your testimony
21 in your Direct at Lines 121, 123 that increases in
22 2007 are objective and verifiable and do not entail

1 subjective estimates as do forecasts and projections,
2 correct?

3 A That what it says here, yes.

4 Q And that's your position?

5 A That's my testimony, yes.

6 Q And the Company has based its 2008 Pro
7 Forma amounts on forecasts and projections as more
8 fully explained in the testimony of more ComEd's
9 witnesses, correct?

10 A That's correct.

11 Q Did you review any of that testimony, by
12 the way, to gain an understanding of how ComEd
13 derived its 2008 Pro Forma additions?

14 A Yes.

15 Q Which testimony did you review?

16 A It was Mr. Donnelly's mainly, I believe.
17 Other witnesses addressed it. I think there was
18 maybe Mr. Williams, perhaps. I don't have all the
19 names in front of me.

20 Q Did you review any of the underlying
21 voluminous data that they submitted in support of
22 that testimony on particular projects and schedules

1 and budgets?

2 A I looked at it. It was an overwhelming.

3 Q It really was. It was a huge amount of

4 data, wasn't it?

5 A It was a lot.

6 Q Voluminous data.

7 And you're not an expert in

8 construction or scheduling or budgeting of

9 construction projects, are you?

10 A I'm not an engineer, if that's what you

11 mean.

12 Q No, I'm asking if you're an expert in

13 scheduling, construction, budgeting?

14 A I'm somewhat familiar with budgeting more

15 so than probably scheduling or engineering, that kind

16 of thing.

17 Q You didn't see anything in that underlying

18 data that you disagreed with, did you?

19 A No particular item jumped out at me as

20 being, in itself, particularly unreasonable.

21 Q Now, your assumption that 2008 is going to

22 look just like 2007 is just that, is it not? It is

1 an assumption?

2 A I used the historical experience as the
3 basis of projection, yes.

4 Q But to assume that historical basis is
5 the -- is going to repeat itself is an assumption and
6 that is subjective and -- that's subjective?

7 You have made a subjective decision
8 that to use history as a guide to the future is the
9 right way to go?

10 A I would say I used judgment in determining
11 a way to project the additions.

12 If you want to characterize it as
13 subjective, I guess, that's your prerogative.

14 I think it's based on what's actually
15 happened, though. So in that regard what happened
16 has happened.

17 Q But to say that it's going to repeat itself
18 is a judgment, which I think you said you made. You
19 would agree with me that a judgment is subjective by
20 its very nature, isn't it?

21 A I think to say this is exactly going to
22 repeat itself might be an overstatement of my

1 position. All I'm saying is that it's a neutral
2 forecast, neutral projection, of what might happen in
3 the future.

4 In all probability, it's not going to
5 exactly repeat itself, just like it's not going to
6 exactly match the Company's forecast; it's going to
7 be something more, something less.

8 Q Well, you know from looking at the FERC 41s
9 and Scheduled B5s that were attached to the Company's
10 filing in this case that, in fact, history does not
11 repeat itself with respect to distribution plant
12 additions?

13 A It would be extremely unlikely if the
14 additions were exactly the same from year to year.

15 On the other hand, I don't think
16 relying on history is a biased method of looking at
17 what the forecast might reasonably be.

18 Q There have been big swings from year to
19 year recently, have there not, in distributions plans
20 additions?

21 A They've have been swings, yeah.

22 Q Now, in connection with the plant and

1 service, you made another adjustment, and that
2 is -- and I'll just characterize this in a way that
3 I'm comfortable, and if you disagree, just let me
4 know.

5 But I'm saying that you carried
6 through, through the third-quarter of 2008, the
7 depreciation reserve and the accumulated deferred
8 income tax balances from the end of the test year,
9 correct?

10 A Yes, I think that's a reasonable
11 characterization.

12 Q Okay. And that has the effect of reducing
13 the Company's rate base by about \$649 million for the
14 depreciation reserve and about \$88 million for the
15 deferred income taxes, correct?

16 A Which testimony are you looking at now?

17 Q That's, I believe, from your Exhibit 5.1,
18 attached to your rebuttal testimony.

19 A The adjustment to the depreciation reserve
20 is about \$693 million.

21 Some of that, though, would relate not
22 just to carry forward with the depreciation reserve

1 but a difference in the way that the retirements were
2 projected, too. It's kind of, as I think I tried to
3 emphasize throughout this testimony, it's kind of
4 hard to separate that from the adjustment of the
5 plant additions.

6 Q Whatever the amount is, it's a big amount
7 of money that separates you and the Company on this
8 issue, correct?

9 A On that we agree 100 percent.

10 Q All right. And as explicit in your
11 answer, ComEd opposes this carry forward, as I
12 described it, correct?

13 A That's what I understand, yes.

14 Q Now, you also say in your rebuttal
15 testimony, as -- I will say it's one of your grounds
16 for opposition to the Company's position, and this is
17 at Pages 11 and 12 of your rebuttal testimony, that
18 if the Commission accepts ComEd's position, it would
19 not surprise you if in its next case ComEd proposes a
20 2009 test year with an adjustment for plant additions
21 out to 2014 in the Pro Forma reduction -- to the Pro
22 Forma 50 percent reduction to the depreciation

1 reserve? That's in your testimony, isn't it?

2 A That's what it says here, yes.

3 Q In fact, if that occurred, you would be
4 very surprised; would you not?

5 A Compared to what I've seen, I'd be a little
6 surprised, perhaps. I don't know about very
7 surprised.

8 Q Well, you do know, based on your
9 familiarity with the Commission's rule on Pro Forma
10 additions, that a case with a 2009 test year would
11 not allow Pro Forma plant investment to be added
12 through 2013 unless the tariffs were filed in January
13 2013, correct?

14 A I understand that, but what's your point?

15 Q My point is the situation that you say you
16 wouldn't be surprised about can almost have no
17 possibility of occurrence. That's my point.

18 A Well, I don't understand why it would have
19 no possibility of occurrence.

20 Q You think a company would file a rate case
21 in January 2013 and use a 2009 test year simply so it
22 could include some Pro Forma additions till the end

1 of 2013?

2 A Well, it would just be kind of a little bit
3 of an expansion of the Company's presentation in this
4 case.

5 Q Well, you know, you're assuming that this
6 Pro Forma addition would drive the Company's thinking
7 on when to file a rate case.

8 But let me ask you a question: Are
9 you aware of any electric -- any utility, anywhere in
10 the United States that has filed a case with a test
11 year four years earlier simply so it could include
12 Pro Forma additions in its rate case?

13 A That's a very good question.

14 And the answer is, I'm not.

15 On the other hand, I'm not aware of
16 any other utility commission in the country, at least
17 none that I've ever appeared before, that would allow
18 a company to use a plant and service as of
19 September 30th, 2008 with accumulated depreciation as
20 of December 31, 2006 being deducted from that plant
21 and service.

22 The one follows the other. That's

1 been the practice of every other Commission that I
2 testified before in this country.

3 Q Are you saying that this Commission is not
4 doing its job, Mr. Effron?

5 A I'm not saying that. I'm just saying that
6 I think it would be very wrong, and it would be
7 inconsistent with utility practice, as I've seen it,
8 and as I understand it to allow that kind of
9 mismatch.

10 Q You know we do things a little differently
11 here in Illinois sometimes.

12 A I have a pretty good understanding of how
13 things are done here in Illinois.

14 Q Are you familiar with the Peoples Gas order
15 on this issue?

16 A Yes, I am.

17 Q And it, in fact, rejected the carry forward
18 that we're talking about here; did it not?

19 A As I believe I said in my testimony, the
20 distortion was not as great, you weren't looking at a
21 21-month difference, it was 12 months.

22 And I believe if I read that order

1 correctly, the Commission distinctly left open the
2 possibility of revisiting this issue.

3 Q We will look at that.

4 We have a couple of pages from that
5 order. I hope you have those in front of you, too.
6 It's Pages 14 and 15 from the order in that case.
7 I'm sorry. It's Pages 16 and 17.

8 Do you have that?

9 A I have it. I did have that before.

10 Q Well, I needed the exercise anyway.

11 Do you agree as a general proposition,
12 Mr. Efron, that Commission actions should quote,
13 "bring certainty to a situation and settle
14 expectations"?

15 A I think that's a reasonable principle.

16 Q And that's the principle that the Illinois
17 Commission adopted on Page 16 of this order in
18 07-0241, correct, about the middle of the page?

19 "All parties should agree that
20 Commission action bring certainty
21 to a situation and settles
22 expectations, so said the

1 Commission."

2 Correct?

3 A I accept your reading of it.

4 Q The Commission also said in that case on
5 this very subject that unless there are clear and
6 distinguishable reasons for deciding a case
7 differently, the Commission will follow in line with
8 precedent; to do otherwise, risks a charge of
9 arbitrary and capricious action.

10 That's what the Commission said in
11 this order?

12 A Yes.

13 Q The Commission in this order followed its
14 decision in the previous ComEd case, 05-0597 on this
15 very issue, too; is that not correct?

16 A It reached a similar conclusion.

17 Q At the very bottom of Page 16, the
18 Commission is comparing its decision in 0241 with
19 what the situation was in 0597, and it was pointing
20 out the similarities between those two cases,
21 correct?

22 A If I could have a second to read it please.

1 Q Sure.

2 A Thank you.

3 I think what they're describing here,
4 it looks to me, is the argument that the utilities
5 made in the two cases being similar.

6 Q And, in fact, however you characterize it,
7 the Commission relied on those similarities to decide
8 the case in 0241 the same way it decided the case in
9 0597, correct? You can agree with that as a
10 substantive matter or not, but that's what the
11 Commission was doing in this order, correct?

12 A Well, you could read what they said here.
13 That it says, "GCI take little or no account of the
14 facts, circumstances defined in Docket 05-0597," and
15 they did not adopt the proposed adjustment for that
16 reason.

17 Q And those circumstances that the Commission
18 in 0241 was comparing from 0597 are the exact same
19 circumstances that are present here, just those that
20 the Commission was talking about.

21 I know that you think there are
22 differences, but I'm talking about the ones that the

1 Commission thought were important.

2 Those circumstances in 0597, 0241 had
3 in this case are all the same, aren't they?

4 MS. DALE: I'm going to object. The order says
5 what it says. To ask the witness to try to
6 interpret what it was that the Commission was
7 intending is sort of a useless exercise.

8 The order says what it says.

9 JUDGE HILLIARD: Sustained.

10 BY MR. STAHL:

11 Q Let me just ask one final question on that
12 line then, Mr. Effron.

13 The Commission at the top of Page 17
14 refers to, I will read it here, as in Docket 05-0597
15 the same orders entered in earlier dockets are being
16 asserted by the intervening parties in support of
17 their position.

18 The Commission then went onto find
19 that those cases were inapplicable and without merit.

20 Those are the same cases that you cite
21 in your rebuttal testimony in this case, are they
22 not, the Union Electric and the Illinois Power cases?

1 A If I could have a moment. I can't locate,
2 as I sit here, where they said those other orders
3 were without merit.

4 Q That were what?

5 A I'm not seeing, as I sit here, where the
6 Commission, in the order before me, said that those
7 orders, which I think the term you used were
8 "inapplicable" and "without merit." I'm not seeing
9 those words here or anything -- maybe I'm missing it.
10 I'm reading quickly.

11 Q Well, slow down. Read the next sentence
12 beginning the first paragraph the top of 17: "In our
13 conclusion for Docket 05-0597, the Commission
14 determined that the same cases that the GCI parties
15 rely on here were inapplicable and without merit."

16 A They're citing what the Commission said in
17 the last docket. I didn't see them make the same
18 conclusion in this docket.

19 Q I see. Okay.

20 But those are the same cases that you
21 cited in your rebuttal testimony in this case, the
22 ones that, at least in 0597, were found inapplicable

1 and without merit?

2 A I don't have the 05-0597 order.

3 Q I want to talk about new business revenue
4 credit briefly. I know I'm running out of time and
5 I'm going to stick to my hour.

6 You and the Company have a difference
7 of several million dollars with respect to the new
8 business revenue credit, do you not?

9 A Yes, I think it's about 4 or 5 million.

10 Q You say it ought to be higher. The Company
11 says it ought to be a little bit lower.

12 The net effect of a higher new
13 business revenue credit is to reduce the revenue
14 deficiency, and therefore, reduce the revenue
15 requirement and the need for rate relief, correct?

16 A I hate to get into a dispute about
17 semantics. It would reduce the revenue deficiency.
18 It would not reduce the revenue requirement, no.

19 Q Okay. It will, at least, reduce the
20 revenue deficiency.

21 In the 0597 case, you testified on
22 behalf of the Attorney General, and in that case the

1 Company and the Attorney General agreed on the amount
2 of the new business revenue credit, correct?

3 A That's correct.

4 Q And that new business revenue credit in
5 that case was calculated based on test-year sales
6 projected into the following year 2005, correct?

7 A It was based on test-year sales with one
8 year of growth consistent with the one year of plant
9 additions, yes.

10 Q Right. And there were Pro Forma additions
11 in 2005 in that case?

12 A Yes.

13 Q Okay. In this case, the Company has
14 calculated its new business revenue credit based on
15 test year 2006 sales, just as it did in 0597 using
16 test-year sales as the base, correct?

17 A And adjusted out for projected growth
18 through 2007 and the first three-quarters of 2008.

19 Q Correct.

20 And that's the way it was done in
21 0597, correct?

22 A There was a distinction, but it's not

1 particularly relevant to what we are talking about
2 now.

3 Q I don't want to talk about irrelevant
4 distinctions.

5 You in this case, however, are doing
6 it a little differently from the way it was done in
7 0597. You're saying that you ought to look at actual
8 '07 and I guess first three months of '08 sales,
9 correct?

10 A I believe I only had the actual information
11 for the 2007. I don't think I had actual 2008
12 information.

13 Q I stand corrected.

14 A But consistent with relying on the actual
15 plant additions for 2007.

16 Q Right. I understand.

17 A That struck me as being inconsistent.

18 Q But in the 0597 case, the new business
19 revenue credit accepted by the Commission in the
20 final order was not based on actual 2005 sales even
21 though the Pro Forma plant additions covered 2005; is
22 that not correct?

1 A That's correct, but they weren't actual
2 2005 plant additions. They were forecasts of 2005
3 plant additions.

4 Q The 2005 -- strike that.

5 At the time the order was entered in
6 0597 both '05 actual additions and actual sales
7 information were available, correct?

8 A Yes, they would be.

9 Q Customer advances for construction,
10 Mr. Effron, you and the Company are about \$20 million
11 or so apart on this issue, at least, maybe as much as
12 \$30 million; is that correct?

13 A \$30 million sounds high. 20 million sounds
14 like it might be in the ballpark.

15 Q And it's complicated, because there's two
16 different categories of customer advances and there's
17 two sets of numbers for the levels.

18 Let's talk about the first one that's
19 distribution plant construction, customer advances.

20 You originally said that \$11 million
21 ought to be added to rate base?

22 A Subtracted from rate base.

1 Q Subtracted from rate base rather, because
2 these were funds supplied by customers?

3 A Yes.

4 Q You then changed that to \$7.9 million,
5 correct?

6 A Based on additional information, I used an
7 average balance rather than the balance of --

8 Q With respect -- let's talk about your
9 initial testimony first.

10 Of the \$11.1 million, the Company has
11 said in its testimony, its rebuttal testimony, that
12 \$8.9 million of that has already been deducted from
13 rate base because it relates to Pro Forma plant
14 additions that are included in rate base; is that not
15 the Company's position, according to your
16 understanding?

17 A It sounds like an accurate description of
18 it.

19 Q All right. And you have no reason to
20 believe that the \$8.9 million related to that Pro
21 Forma plant addition amount has not, in fact, been
22 deducted from rate base, do you?

1 A Actually, I thought that -- I don't want to
2 get into semantics. I thought they said that it had
3 been spent, and therefore, it was offset against of
4 the plant --

5 Q It had been spent? The plant had been
6 closed to service and the amount included in the Pro
7 Forma rate base, correct?

8 A (Shaking head up and down.)

9 Q Okay. And the other big category of items
10 here is the \$22.083 million customer advances for
11 line extensions, correct?

12 A Yes.

13 Q And you also know that of that amount which
14 you say ought to be excluded from rate base or
15 deducted from rate base, the Company has testified
16 that 10.018 million of that has similarly already
17 been deducted from rate base because the line
18 extensions are in Pro Forma plants and service,
19 correct?

20 A I don't have that in front of me, but I
21 will accept that representation.

22 Q And you have no reason to disagree with

1 that, do you?

2 A I don't, no.

3 Q So that leaves a balance of about, not the

4 33 million that we were originally were talking

5 about, but about \$12 million, \$12.2 million that

6 remains undeducted from rate base, and which you

7 claim should be deducted from rate base, correct?

8 A Yes.

9 Q And that's actually less than that, because

10 that 12 million is based on the 11, not the 7.9 that

11 you changed your testimony to?

12 A It is what it is, yeah.

13 Q It is what it is, but we need to know what

14 it is. It's something less than \$11 million, isn't

15 it?

16 A I hate to say -- what's something less than

17 11 million.

18 Q The amount that has not been deducted from

19 rate base for these customer advances, but you say

20 should be deducted?

21 A I'll accept that, subject to check,

22 assuming I can go back and sort through this and

1 check exactly.

2 Q Now, you know that the Company's position
3 on this is that these are not funds that are
4 generally available to the Company because they are
5 earmarked for specific projects and can be spent only
6 for those customer-funded projects, correct?

7 A They're earmarked for those projects.
8 It's my understanding that they're not kept in a
9 segregated cash account, though, that the Company
10 can't otherwise use.

11 Q They're not kept in a piggy bank or
12 something like that, but you do know that the Company
13 may not use those funds for general corporate
14 purposes or for its General Construction Program
15 because they are earmarked for the customer's
16 project?

17 A I wouldn't put it that way myself. I
18 believe they can use them for whatever they want, as
19 long as they have funds to -- when the time comes, to
20 dedicate to the particular project for which they're
21 designated. That's the way I would put it.

22 Q You wouldn't expect, in the ordinary course

1 of events, would you, Mr. Efron, that too many of
2 ComEd's customers would make long-term interest-free
3 loans to ComEd?

4 MR. STAHL: I don't know if Mr. Townsend is
5 here. He might disagree with that.

6 THE WITNESS: If the applicable tariffs
7 required them to put down advances, so they could get
8 service, then they may not like it, but that's what
9 they do.

10 BY MR. STAHL:

11 Q Do you know what the applicable tariff says
12 here?

13 A I have not read that in preparation of my
14 testimony.

15 Q Do you know there is a tariff, I think it's
16 Rider DE that governs at least the line extensions?

17 A As I said, I have not reviewed that in
18 preparation of my testimony, but I wouldn't be
19 surprised.

20 Q Do you know that the only restriction on
21 the Company with respect to those customer-supplied
22 funds is that the funds must be paid before the

1 project is live or energized? It doesn't have to be
2 60 days in advance or 90 days in advance or 120 days
3 in advance, the money has to be there before the
4 project will be placed in-service? Did you know
5 that?

6 A As I said, I don't have the tariff in front
7 of me. So it says what it says.

8 Q Okay. Have you ever read the tariff?

9 A Ever? I might have at some point.

10 Q Let me go back to my other question, and
11 that is: You wouldn't expect, in the ordinary course
12 of events, Mr. Effron, that unless a customer
13 absolutely had to do it, that it would make an
14 interest-free loan to ComEd for an extended period of
15 time, more than a week, two weeks, three weeks? You
16 wouldn't expect that?

17 A I wouldn't expect them to do it out of the
18 goodness of their heart for half an hour.

19 Q All right. Very good. Thank you.

20 MR. STAHL: I have no further questions. And
21 I would move the admission into evidence of ComEd
22 Exhibits 1 through 6?

1 JUDGE HAYNES: 5? I don't have 6.

2 MR. STAHL: I'm sorry. 1 through 5.

3 JUDGE HILLIARD: Any objections?

4 MS. DALE: No objection.

5 JUDGE HAYNES: ComEd's Exhibits 1 through 5 are
6 admitted.

7 JUDGE HILLIARD: Redirect?

8 MS. DALE: Can I have a minute, your Honors?

9 JUDGE HAYNES: Sure.

10 JUDGE HILLIARD: Let's take a break.

11 MS. DALE: We have no redirect your Honors.

12 JUDGE HILLIARD: Let's take three minutes or
13 so.

14 (Whereupon, ComEd Cross Exhibit
15 Nos. 1 through 5 was admitted
16 into evidence.)

17 JUDGE HAYNES: Who would like to call the first
18 witness?

19 MR. ROBERTSON: Just for the reporter, my name
20 is Eric Robertson. I represent the Illinois
21 Industrial Energy Consumers.

22 And we would like to call as our first

1 witness, Mr. Robert R. Stephens.

2 (Witness sworn.)

3 ROBERT R. STEPHENS,

4 called as a witness herein, having been first duly

5 sworn, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY

8 MR. ROBERTSON:

9 Q Mr. Stephens, would you identify yourself
10 for the record please.

11 A Robert R. Stephens.

12 Q And by whom are you employed?

13 A Brubaker and Associates Incorporated.

14 Q And on whose behalf are you testifying in
15 this proceeding, Mr. Stephens?

16 A Illinois Industrial Energy Consumers.

17 Q All right. I show you now what has been
18 previously marked as IIEC Exhibit 1.0 consisting of
19 38 pages of questions and answers and Appendix A with
20 your qualifications and a corrected Exhibit 1.1.

21 Is this your corrected direct
22 testimony?

1 A Yes, it is.

2 Q And was it prepared under your supervision
3 and at your direction?

4 A Yes.

5 (Whereupon, there was
6 a change in reporter.)

7 A Yes.

8 Q And was Exhibit 1.1 prepared under your
9 supervision and your direction?

10 A Yes.

11 Q Is the information contained therein true
12 and correct, to the best of your information and
13 belief?

14 A Yes.

15 Q And if I were to ask you the questions
16 contained therein today, would your answers be the
17 same as contained therein?

18 A Yes.

19 Q I also show you what has previously been
20 marked as IIC Exhibit 4.0, consisting of 7 pages of
21 questions and answers, marked as the Supplemental
22 Direct Testimony of IIC Witness Robert R. Stephens.

1 Do you have that document?

2 A Yes, I do.

3 Q Was it prepared under your supervision and
4 under your direction?

5 A Yes.

6 Q Is the information contained therein true
7 and correct, to the best of your information and
8 belief?

9 A Yes.

10 Q If I were to ask you the questions
11 contained therein, would your answers be the same as
12 contained therein?

13 A Yes.

14 Q I show you now what has been previously
15 marked as IIC Exhibit 5.0 consisting of 31 pages of
16 questions and answers and an Exhibit 5.1 that has
17 been marked as Rebuttal Testimony of IIC Witness
18 Robert R. Stephens. Do you have that document?

19 A Yes.

20 Q Was it prepared under your supervision and
21 at your direction?

22 A Yes.

1 Q Is the information contained therein true
2 and correct, to the best of your information and
3 belief?

4 A Yes.

5 Q If I were to ask you the questions and
6 answers contained therein -- I'm sorry, questions
7 contained therein, would your answers be the same as
8 currently contained therein?

9 A Yes.

10 MR. ROBERTS: Your Honor, at this time I would
11 move the admission of IIC Exhibit 1.0, the Corrected
12 Testimony and Corrected Exhibit of Robert R. Stephens
13 admitted on e-docket on February 26, 2008 as Document
14 No. 89572. The IIC Exhibit 4.0, identified as the
15 Supplemental Direct Testimony of IIC Witness Robert
16 R. Stephens, filed on e-docket on February 26, 2008,
17 Document No. 89602. And IIC Exhibit 5.0, marked as
18 the Rebuttal Testimony and Exhibit 5.1 of IIC Witness
19 Robert R. Stephens being filed on e-docket on
20 April 8, 2008, Document
21 No. 1552. And submit the witness for cross
22 examination.

1 JUDGE HAYNES: Any objections? Hearing none
2 those exhibits are admitted.

3 (Whereupon, IIC
4 Exhibits Nos. 1.0, 4.0, 5.0 and
5 5.1 were admitted into evidence
6 as of this date having been
7 previously filed on e-docket.)

8 JUDGE HILLIARD: Who's up first?

9 CROSS EXAMINATION

10 BY

11 MR. ROONEY:

12 Q Good afternoon, Mr. Stephens. For the
13 record, John Rooney on behalf of Commonwealth Edison
14 Company from the firm Sonnenschein, Nath and
15 Rosenthal, LLP.

16 Mr. Stephens, my questions are going
17 to relate solely to your direct testimony and in
18 particular, Pages 8 through 10.

19 On Page 10, Lines 173 through 175, am
20 I correct that you are stating that Figures 1 and 2,
21 which are found on Pages 8 and 10, respectively, is
22 an appropriate comparison between Com Ed rates and

1 those of the Ameren companies, would I be correct
2 with that summary?

3 A Yes, for the categories of customers that
4 I've described.

5 Q Okay, let's turn to Figure 1. As I
6 understand it, this reflects the standard voltage
7 customer at 20 megawatts. Under Com Ed's rates this
8 customer would fall into the extra large load
9 customer class; is that correct?

10 A Yes.

11 Q Now, as reflected in the asterisks at the
12 bottom of Figure 1, am I correct that you have
13 assumed that standard voltage customers are served at
14 34.5 kV?

15 A Yes.

16 Q In the course of preparing your testimony
17 did you seek to determine how many customers were
18 included in Com Ed's extra large load customer class?

19 A I don't know that I sought to determine it.
20 I saw billing units associated with the class,
21 though.

22 Q Would you accept, subject to check, that

1 for the 2006 test year, Com Ed had 53 customers in
2 this class?

3 A Yes.

4 Q Mr. Stephens, do you know how many
5 customers in this class do not take their service at
6 or above 34.5 kV?

7 A No.

8 Q Would you accept, subject to check, that in
9 2006 test year, 38 out of the 53 customers took
10 service at 12 kV?

11 A I don't know how I would check that.

12 Q If we -- obviously, we couldn't provide you
13 with a customer list, but we could provide you with a
14 list that reflected customers that are in that class
15 and where they are taking service at as primary
16 service. If we provided you that, would that be
17 acceptable?

18 A My understanding is that Com Ed keeps very
19 little records as to who takes service of primary and
20 that sort of thing, so I'm not exactly sure how you
21 would provide it.

22 Q All right. Well, let me ask you this, do

1 you know how many of your own customers that IIC
2 represents takes service at 12 kV?

3 A I know that at least one does.

4 Q Do you know whether or not any customer
5 within the City of Chicago that -- at that -- in that
6 customer class takes service at something greater
7 than 12 kV?

8 A Do I know whether there is any customer in
9 the City of Chicago greater than 10 megawatts?

10 Q Right.

11 A That takes service at greater than 12 kV,
12 is that your question?

13 Q Correct?

14 A I don't know the answer to that. I do know
15 that there are several customers that do take service
16 greater than 12 kV. I don't know their geographic
17 location.

18 Q My question was, do you know whether there
19 are customers within the City of Chicago that take
20 service at above kV that is within this extra large
21 load customer class?

22 A I do not.

1 Q I would like to engage in a hypothetical.
2 May I approach the witness, your Honor?
3 JUDGE HAYNES: Yes.
4 MR. ROONEY: I would like to have this marked as
5 Com Ed Cross Exhibit No. 6. And just for the record,
6 I provided counsel with this -- or the witness with
7 this document a little bit earlier.
8 (Whereupon, Com Ed Cross
9 Exhibit No. 6 was
10 marked for identification
11 as of this date.)
12 BY MR. ROONEY:
13 Q Mr. Stephens, the document I've provided as
14 Com Ed Cross Exhibit No. 6, this reflects rates, Com
15 Ed customers, which are the left three -- second,
16 third and fourth columns and the rates that are
17 proposed. And if you see under Com Ed current, do
18 you see that column?
19 A Yes.
20 Q Would you agree that that's Com Ed's
21 customer charge for that class of customers?
22 A I've not had a chance to verify that.

1 Q Would you have any reason to believe that
2 that would be incorrect?

3 A No.

4 Q And the same for the metering charge and
5 the DFC, would you have any reason to doubt that
6 that's the correct charge?

7 A No, I have no reason to doubt. In fact, I
8 did check the DFC charge and it does match.

9 Q And in that first column under Com Ed
10 current, what that calculation purports to present is
11 that based upon an average usage of 13,538 kw per
12 customer served in that class, Com Ed's currently
13 monthly bill for distribution services would amount
14 to \$34,055.21. Do you see that?

15 A I see the figure 34,055. I don't believe
16 you characterized it correctly, though.

17 Q How would you characterize it?

18 A If I had a chance to check the numbers, I
19 would characterize it as a customer whose monthly
20 peak demand was 13,538 kilowatts. Their bill would
21 total to some amount, I've not tried to verify your
22 number there. Average demand is something entirely

1 different.

2 Q Understood. And then going across the
3 column you see there is current rates for Illinois
4 Power, current rates for Central Illinois Public
5 Service and current rates for CILCO. Do you have any
6 reason to believe that those numbers are incorrect?

7 A These a little more difficult, because I
8 don't normally deal with these numbers because large
9 customers typically do not take service at 12,000
10 volts in the Ameren territories.

11 Q And that's because of the fact that those
12 customers take it at -- well, let me strike that.

13 You are familiar with these rates to
14 the extent that -- let me step back.

15 Mr. Stephens, in March of this year,
16 am I correct that you filed testimony in Ameren
17 companies delivery services cases?

18 A Yes.

19 Q And during the course of that, filing that
20 testimony, did you seek to review the distribution
21 charges for Ameren CIPS, Ameren IP and Ameren CILCO?

22 A Yes, primarily for the customers, the large

1 customers that we represent.

2 Q And in fact, certainly with regard to the
3 DFC, the distribution facilities charge, do you
4 recall inserting a table into your direct testimony
5 identifying the charges related to the Ameren IP,
6 Ameren CIPS, Ameren CILCO, relating to the DFC?

7 A I probably did.

8 Q Would you like to see it to confirm?

9 A Yes, please.

10 Q (Tendering document.)

11 A Yes.

12 Q So I would take it that you have some
13 degree of familiarity with these rates as, in
14 particular, the rates for Ameren customers who take
15 service between 600 volts and 15,000 volts is
16 represented on what I've reflected here as Com Ed
17 Cross Exhibit No. 6?

18 A Well, I've shown the DFC's at primary
19 voltage in this table.

20 Q If you would like, I have the tariffs for
21 Ameren, CILCO, CIPS, and IP, if you would like to
22 confirm that as well.

1 A I'll assume I got it right, unless you tell
2 me it's wrong.

3 Q Well, actually I was hoping you would
4 assume I got it right here. In any event, going back
5 to -- assuming the calculation you just described,
6 for a customer, a Com Ed customer under the usage
7 that is reflected on this exhibit, Com Ed's current
8 charges of \$34,000 would be compared to IP's current
9 charges for that same class at 59,429.36. CIPS'
10 charges of 43,644.06. And CILCO's current charges
11 under current rates of \$47,543. Do you see that?

12 A I see those figures.

13 Q And it's based upon the rates currently in
14 effect for all four companies?

15 A Well, it's based on rates that are
16 currently in effect, but there are some charges in
17 there that probably wouldn't be applicable.

18 Q Well, are you speaking of the transformer
19 charge?

20 A Well, I'm speaking of that as one of them.

21 Q Well, let's speak to that for a second.

22 Isn't it true that reflected within Com Ed's current

1 rates there is embedded within that charge a cost for
2 standard transformation?

3 A That's my understanding.

4 Q And would you like to look at the tariffs
5 to see whether there is a standard charge for
6 transformation for Ameren IP, CILCO and CIPS
7 customers for their tariff?

8 A There is a standard charge, but it doesn't
9 apply to everyone.

10 Q But to those customers that's taking under
11 standard charge, that charge would apply?

12 A To those customers that are buying
13 transformation service on a per month basis from the
14 utilities, which are the minority, I believe it would
15 apply.

16 Q But would you agree that that would be the
17 appropriate comparison to compare those charges to
18 the Com Ed charges where the standard facility -- the
19 standard transformation is included?

20 A If you are considering only this minority
21 of customers, that would be the right comparison.

22 Q Well, we're really comparing Com Ed

1 customers here, not IP customers, because as I
2 understand your Figure 1, you are comparing the rates
3 applicable to an Ameren customer that is similarly
4 situated to a Com Ed customer, correct?

5 A Yes, but not at this voltage level.

6 Q And that's my point. Is that in the course
7 of your studies you didn't make a determination to
8 see how many customers this chart would be applicable
9 to, did you, Com Ed customers that were in the extra
10 large load class?

11 A Are you referring to my Figure 1?

12 Q Yes, I am.

13 A No, I used 34.5 as the standard voltage.
14 I'm sorry, 34.5 kV.

15 Q Fair enough. And so to the extent that a
16 Com Ed customer, in the extra large load class, is
17 taking service at 1,000 kV, wouldn't you agree that
18 this Figure 1 would not be a fair comparison?

19 A I think what you meant to ask is if you
20 assume a customer taking service at 12 kV in either
21 the Com Ed territory or in the Ameren territories, in
22 that limited circumstance, would it be a fair

1 comparison.

2 Q And limited to the extent, is that as I
3 understand it, you think that that's not the normal
4 in the Ameren territories. However, you are not
5 sure, sitting here today, how many customers that
6 impacts on the Com Ed system taking service under the
7 extra large load at 12 kV.

8 A In the case of Com Ed, I don't know exactly
9 how many customers take service at 12 kV. In the
10 case of Ameren, I can tell you that relatively few
11 customers above 10 megawatts take service at
12 600 volts to 12 kV.

13 Q To the extent, though, when you make a
14 comparison, and if you look at Com Ed Cross Exhibit
15 No. 6, if we are going to make a comparison of Ameren
16 customers, IP, CILCO, CIPS, who take service at
17 12,000 kV and compare that to Com Ed customers who
18 take service at 12,000 kV. And subject to check on
19 the numbers I've presented here in this document, Com
20 Ed Cross Exhibit No. 6, Com Ed's current rates are
21 actually -- a monthly bill under Com Ed's current
22 rates is actually lower than all three of the Ameren

1 companies; isn't at that correct?

2 A Under the hypothetical that you've outlined
3 here, and assuming that you meant 12 kV rather than
4 12,000 kV, the answer is yes.

5 Q And then with regard to proposed rates, and
6 if you noted there are two columns for Com Ed, there
7 is Com Ed proposed and Com Ed EPEC. Com Ed EPEC was
8 the Equal Percentage Embedded Cost proposal that was
9 reflected in the Company's direct testimony. The Com
10 Ed proposed rates, which is now the middle column in
11 the Com Ed three columns, that reflects the
12 mitigation, the 50 percent, as Com Ed's proposed.

13 If you compare that to the three
14 proposed rates for CILCO, CIPS and IP and their
15 currently pending cases, under my hypothetical,
16 Illinois Power's proposed rates would be higher than
17 Com Ed's and Com Ed's would be higher than both CILCO
18 and CIPS. But the degree of separation between the
19 largest, which is CILCO, would be approximately
20 \$9,000, \$10,000; is that correct?

21 A There is an awful lot in there, could you
22 ask them one at a time?

1 Q Sure. Looking only to the proposed rates
2 of all four companies.

3 A Okay.

4 Q Which is similar to the comparison you're
5 making in Figure 1, taking Com Ed's mitigation
6 proposal at it's current proposed rates, which is the
7 middle column of Com Ed's figures, and comparing that
8 to the proposed rates of the other three Ameren
9 companies, Com Ed's rate is lower or resulting rates
10 are lower than -- IP's proposed rates are lower than
11 Com Ed IP's proposed rates; isn't that correct?

12 A I can't agree with all that.

13 Q Well, let me set that aside. Let's turn to
14 Figure 2 which is on Page 10, Mr. Stephens. Am I
15 correct that figure two represents your comparison of
16 the average delivery charges of Illinois delivery
17 utilities for high voltage customers?

18 A Yes.

19 Q And for purposes of Commonwealth Edison
20 Company, that would be customers that reside in the
21 extra large load class; is that correct?

22 A No.

1 Q All right, I'm sorry, the high voltage
2 class?
3 A Yes.
4 Q Thank you. And would you agree that the
5 Com Ed's \$1.11 charge for kw that's reflected on
6 Figure 2, includes a standard transformation charge?
7 A No.
8 Q You did not include that in that?
9 A There was nothing to include.
10 Q All right. Mr. Stephens, are you familiar
11 with Com Ed's definition of MKD?
12 A I've not reviewed it in a while, but yes.
13 Q Would you like to look at Com Ed's standard
14 terms and conditions with regard to that particular
15 definition?
16 A If you're going to ask me questions about
17 it I would.
18 Q I'll just refresh your recollection,
19 hopefully. And for the record, it's the first
20 definition on Second Revised Sheet No. 499. Do you
21 see that?
22 A Yes, I do.

1 Q Would you agree, as I understand it, Com
2 Ed's MKD is based on the highest 30-minute demand for
3 power and energy between 9:00 a.m. and 6:00 p.m.,
4 except on the defined holidays?

5 A You are close. You also have to limit it
6 with Monday through Friday.

7 Q So it's even narrower than I suggested?

8 A Yes.

9 Q Are you familiar with Ameren's definition
10 for demand for its distributions facility charge?

11 A Its present or its proposed?

12 Q Its present.

13 A Yes.

14 Q Would I be correct that defined in the
15 Ameren tariff, it's the highest demand during any
16 15-minute period during the billing period?

17 A I'm not sure that's true for all three
18 Ameren territories. The time -- excuse me, the
19 measurement time may be a little different. But if
20 your point is it's 24 hours clock, the answer is yes.

21 Q 24 hours, 7 days, there is no exception
22 period in the -- in that period in which they seek to

1 find the 15-minute highest demand?

2 A It's the 15 I'm potentially disagreeing
3 with. And under their present rates, what you've
4 said is the case but not under their proposed rates.

5 Q And what is it under the proposed rates, is
6 your understanding?

7 A It compares between their on peak demands
8 and their one-half of their off peak demands.

9 Q And under that -- I'm sorry, I didn't know
10 if you were done.

11 A I apologize. I should have supplemented
12 that to say and uses the higher of the two figures as
13 the bill and demand.

14 Q Would you consider that definition to be
15 broader or narrower than the MKD definition used by
16 Com Ed?

17 A I don't remember their definition of on
18 peak, to be honest, whether it's the delivery peak
19 period or the supply peak period. But as far as the
20 one-half of off peak, that part would be somewhat
21 broader, although it doesn't apply much.

22 Q And with regard to the -- for those

1 customers that take standard transformation from IP,
2 do you recall -- forget recall, would you have any
3 reason to disagree with me that that's defined and
4 measured by the highest billing demand during the
5 year?

6 A I can accept that, subject to check.

7 Q And they also have a separate charge
8 related to the bar. Are you familiar with that
9 charge?

10 A Yes.

11 Q And would you agree that the -- they
12 measure that charge based on the highest 15-minute
13 reactive demand during the billing period?

14 A That sounds right, but, again, I would want
15 to check before I could agree to it.

16 Q Sure. And let me ask this question, if you
17 apply Ameren's proposed definitions, for those same
18 three elements, to Com Ed's proposed rates, let me
19 finish, and compared that to Com Ed's definition of
20 MKD, to proposed rates, would a customer see a
21 difference in the bill that they were charged?

22 A I'm sorry, I can't really understand the

1 hypothetical you're setting out. Maybe if you broke
2 it into pieces.

3 Q Let me try it this way, the definitions --
4 would you agree that the definitions of the time to
5 measure for the different charges are different
6 between the MKD that Com Ed applies and the
7 definitions applied in the proposed Ameren tariffs?

8 A Presently they're different. Under
9 Ameren's proposed definitions they wouldn't be so
10 different.

11 Q But they wouldn't be identical either,
12 correct?

13 A No, they would not be identical.

14 MR. ROONEY: I have nothing further. And I
15 move, your Honor, for the admission of Com Ed Cross
16 Exhibit No. 6.

17 MR. ROBERTS: Could we wait until we have a
18 chance to redirect, your Honor, on whether or not you
19 admit that exhibit?

20 JUDGE HAYNES: Sure.

21 JUDGE HILLIARD: Is there any more questioners
22 for this witness? BOMA? How about Commercial Group?

1 MR. ROBERTS: Can I have just a few seconds, I
2 hope.

3 JUDGE HILLIARD: REACT?

4 REDIRECT EXAMINATION

5 BY

6 MR. ROBERTS:

7 Q Mr. Stephens, you were asked some questions
8 about the definition of MKD and the definition of
9 maximum billing demand in the Ameren service
10 territory. Can you please tell me what impact, if
11 any, that would have on your analysis?

12 A It would likely have very little impact on
13 the analysis and I'm quite confident it would not
14 change the conclusion that Com Ed's charges are
15 multiples of Ameren's charges as depicted in Figures
16 1 and 2.

17 Q And can you explain to the judges why you
18 think it would have little impact?

19 A Yes. For large customers, especially those
20 which operate around the clock, the on-peak demand
21 would be compared to one-half of the off-peak demand
22 in the case of Ameren. If they operate around the

1 clock, the on-peak demand would always be the driver.

2 Therefore, the definition of MKD, if
3 you will, for Ameren, in nearly every case, would be
4 essentially the definition of MKD in Com Ed's case.
5 And in fact, in the Ameren case, there is only about
6 a 2 percent of the billing units would be impacted by
7 the change in definition of billing demand.

8 Q Also, you were asked a hypothetical or a
9 series of hypotheticals based on Com Ed's Cross
10 Exhibit No. 6. Do you have any comment about the
11 information contained in that exhibit or any other
12 comments you wish to make with regard to that
13 exhibit?

14 A Yes, I believe that the hypothetical
15 customer that has been outlined here is not a very
16 good comparison to the same kind of customer on the
17 Com Ed system for a variety of reasons.

18 Q What are they?

19 A To begin, as I alluded earlier, I'm not
20 aware of any Ameren system customer who takes service
21 at only 12 kV if they are above 10 megawatts.
22 Ameren's tariffs call for all customers above

1 1 megawatt served at a certain voltage -- I'm sorry,
2 it sets forth rates that are voltage differentiated
3 above 1 megawatt. I'm not aware of any customer
4 above 10 megawatts that would take service at such a
5 low voltage on the Ameren system.

6 Second, the way the transformation
7 charge is applied here, it would be applied to very
8 few customers. Under the Ameren tariffs, customers
9 have the option to either own their own transformer
10 and forego transformation charges from the utility
11 all together or to lease a transformer from the
12 utility and, again, to avoid the standard rates that
13 have been outlined here.

14 And then finally -- no, not finally
15 yet. With respect to power factor the assumption
16 here of 85 percent is relatively low for customers
17 who are large energy intensive industries who have
18 charges associated with direct reactive demand. Many
19 customers have power factor correction equipment that
20 would raise their power factor considerably above
21 85 percent and it would not face a significant level
22 of reactive demand charges.

1 Finally, what Com Ed has listed as Com
2 Ed proposed here, I would like to point out, is only
3 step one of Com Ed's proposed rates. As I understand
4 Com Ed's moderation proposal, they want the
5 Commission to move fully to their version of equal
6 percentage of embedded cost at the very next rate
7 case. Whereas, Ameren has proposed no mitigation
8 whatsoever. So you're really comparing half of the
9 Com Ed increase to the full Ameren increase in these
10 cases as those utilities have proposed them.

11 MR. ROBERTS: I have nothing further.

12 MR. ROONEY: Can I follow-up?

13 JUDGE HILLIARD: Recross?

14 MR. ROONEY: Yes.

15 RECROSS EXAMINATION

16 BY

17 MR. ROONEY:

18 Q Mr. Stephens, with regard to your
19 discussion on redirect about the definition of MKD
20 and compared to what Ameren has proposed in its
21 current case, wouldn't you agree with me that that
22 definition, proposed definition, that Ameren has

1 submitted in its case has absolutely nothing to do
2 with either Figure 1 or Figure 2, because Figure 1
3 and Figure 2, you're comparing current rates as
4 opposed to proposed rates, correct? Did you
5 understand my question?

6 A Yes, I did. In the case of Ameren, I've
7 only looked at current rates. In the case of Com Ed
8 I've shown both current and the proposed levels.

9 Q Okay. So if that's the case, under
10 Ameren's current tariffs that are in place, would you
11 agree that their current definitions for demand, the
12 three that we discussed earlier, if applied, would
13 have a different result than the MKD definition that
14 Com Ed applied?

15 A I don't believe it would be significantly
16 different for the reasons I stated a couple minutes
17 ago.

18 MR. ROONEY: No further questions.

19 JUDGE HILLIARD: Okay. Now we're back to Com Ed
20 Exhibit 6, do you have an objection to that?

21 MR. ROBERTS: No, I think the record would be
22 better informed if it's in there. We've explained

1 why it's no good. Thank you.

2 JUDGE HILLIARD: Com Ed cross Exhibit 6 will be
3 admitted. You are excused, sir.

4 (Whereupon, Com Ed Cross
5 Exhibit No. 6 was
6 admitted into evidence as
7 of this date.)
8 (Witness excused.)

9 JUDGE HILLIARD: Mr. Linkenback.

10 (Witness sworn.)

11 RONALD LINKENBACK,
12 called as a witness herein, having been first duly
13 sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY

16 MR. BORAVICK:

17 Q Your Honor, I believe I need to enter an
18 appearance at this time. As one of the attorneys for
19 commission staff witnesses, my name is Michael R.
20 Boravick.

21 Mr. Linkenback, can you please state
22 your name for the record?

1 A Yes, it's Ronald Linkenback,
2 L-i-n-k-e-n-b-a-c-k.

3 Q And where are you employed and in what
4 capacity?

5 A Employed by the Illinois Commerce
6 Commission as an electrical engineer in the Energy
7 Division.

8 Q Mr. Linkenback, I have here in front of me
9 the following three documents, ICC Staff Exhibit 8.0,
10 Direct Testimony of Ronald Linkenback. ICC Staff
11 Exhibit 12.0, Supplemental Direct Testimony of Ronald
12 Linkenback. And ICC Staff Exhibit No. 19.0, Rebuttal
13 Testimony of Ronald Linkenback. Did you prepare or
14 have prepared at your direction the documents I just
15 named?

16 A Yes, I did.

17 Q And if I was to ask you the same questions
18 today, would your answers be the same?

19 A Yes, they would.

20 MR. BORAVICK: Your Honors, at this time I would
21 like to admit into the record ICC Staff Exhibit 8.0,
22 Direct Testimony of Ronald Linkenback. ICC Staff

1 Exhibit 12.0, Supplemental Direct Testimony of Ronald
2 Linkenback. And ICC staff Exhibit No. 19.0, Rebuttal
3 Testimony of Ronald Linkenback, previously filed on
4 e-docket on February 13th, 2008, February 26th, 2008
5 and April 8th, 2008, respectively.

6 JUDGE HAYNES: Any objections? Hearing none
7 Staff Exhibits 8.0, 12.0 and 19.0 are admitted into
8 the record.

9 (Whereupon, Staff
10 Exhibits Nos. 8.0, 12.0 and 19.0
11 were admitted into evidence as
12 of this date having been
13 previously filed on e-docket.)

14 JUDGE HILLIARD: Moving right along, is
15 Ms. Hathhorn here?

16 MR. FEELEY: Yes, she is.

17 (Witness sworn.)

18 DIANNA HATHHORN,
19 called as a witness herein, having been first duly
20 sworn, was examined and testified as follows:

21

22

1 DIRECT EXAMINATION

2 BY

3 MR. FEELEY:

4 Q Could you please state your name for the
5 record?

6 A Dianna Hathhorn.

7 Q And by whom are you employed?

8 A I am an accountant in the Accounting
9 Department of the Financial Analysis Division of the
10 Illinois Commerce Commission.

11 Q Do you have in front of you a document
12 that's been marked for identification as ICC Staff
13 Exhibit 1.0, the Direct Testimony of Dianna Hathhorn,
14 with attached Schedules 1.1 to 1.9 and Attachments A
15 through F?

16 A Yes, I do.

17 Q Do you also have in front of you a document
18 that's been marked for identification as ICC Staff
19 Exhibit 10.0, the Supplemental Direct Testimony of
20 Dianna Hathhorn with Attachment 8?

21 A Yes, I do.

22 Q And finally do you have a document in front

1 of you that has been marked for identification as ICC
2 Staff Exhibit 14.0, the Rebuttal Testimony of Dianna
3 Hathhorn with attached Schedules 14.1 through 14.8
4 and Attachments A through D?

5 A Yes, I do.

6 Q Were all those documents prepared by you or
7 under your direction, supervision and control?

8 A Yes, they were.

9 Q Do you have any additions, deletions or
10 modifications to make to those documents?

11 A I do not.

12 MR. FEELEY: Your Honor, at this time staff
13 would move to admit into evidence ICC Staff
14 Exhibit 1.0 with attached Schedules 1.1 to 1.9 and
15 Attachments A through F. Those are filed on e-docket
16 on February 13, 2008. ICC Staff Exhibit 10.0,
17 attachment -- with Attachment A, filed on e-docket on
18 February 26, 2008 and ICC Staff Exhibit 14.0 with
19 attached Schedules 14.1 through 14.8 and Attachments
20 A through D, which were filed on e-docket on
21 February 10, 2008.

22 JUDGE HILLIARD: Are there any objections?

1 Hearing no objections, the exhibits, schedules and
2 attachments noted by counsel will be admitted in the
3 record.

4 (Whereupon, ICC Staff
5 Exhibits Nos. 1.0, 10.0 and 14.0
6 were admitted into evidence as
7 of this date having been
8 previously filed on e-docket.)

9 MR. FEELEY: Ms. Hathhorn is available for cross
10 examination.

11 JUDGE HILLIARD: Okay. Does Com Ed want to go
12 first or last?

13 MR. RATNASWAMY: We would prefer to go second.

14 CROSS EXAMINATION

15 BY

16 MS. MUNSCH:

17 Q Good afternoon, Ms. Hathhorn, Kristin
18 Munsch on behalf of the People. We just have a very
19 quick question on cross examination.

20 Focusing on your rebuttal testimony,
21 that was Staff Exhibit 14.0. This is referring to
22 Lines 395 to 396, which I believe discusses the

1 treatment of Com Ed's Exelon Way Severance program
2 costs. And you're discussing the Commission's
3 treatment of those costs in the last Com Ed DST case
4 Docket No. 05-0597.

5 And you state there that it is your
6 conclusion that in that docket the Commission allowed
7 Com Ed to amortize Exelon Way Severance costs because
8 those costs were a regulatory asset; is that correct?

9 A Could you point me to a specific line?

10 Q There is actually -- why don't we move to,
11 on page -- I'm sorry, excuse me, Lines 396, 397 or
12 397, 398 discusses the accounting treatment
13 necessary. And in that you reference a footnote,
14 Footnote 11, that is the basis, is it correct, for
15 your understanding that the Commission made a
16 conclusion in that case, that Exelon Way program
17 severance costs were going to be amortized because
18 they are a regulatory asset; is that correct?

19 A In that case, I believe the Commission
20 approved the accounting treatment that Com Ed
21 proposed to amortize over 7 years, which would result
22 in Com Ed recording of regulatory assets.

1 Q And in the footnote that you cite as the
2 basis for that understanding, you refer to two pages
3 from the order in that case; is that correct?

4 A Yes.

5 Q One of those pages is Page 86 and you quote
6 a sentence from that, Com Ed's proposed operating
7 expenses include an appropriate level of severance
8 expense, including an amortized level of the Exelon
9 Way severance expense; is that correct?

10 A Um-hmm.

11 MS. MUNSCH: May I approach the witness?

12 JUDGE HAYNES: Um-hmm.

13 MS. MUNSCH: This is a copy of AG Cross
14 Exhibit 9.

15 JUDGE HAYNES: I think it's AG Cross Exhibit 10.

16 MS. MUNSCH: AG Cross Exhibit 10, then.

17 (Whereupon, AG Cross
18 Exhibit No. 10 was
19 marked for identification
20 as of this date.)

21 BY MS. MUNSCH:

22 Q And would you agree this is an excerpt of

1 that order in that case, 05-0597, this is an excerpt
2 of a discussion of severance costs, Exelon Way
3 severance costs in that case?

4 A Yes.

5 Q And I just want to say, would you agree
6 that Page 86, where the sentence, Com Ed's proposed
7 operating expenses includes an appropriate level of
8 severance expense, including an amortized level of
9 the Exelon Way severance expenses is the -- a
10 statement of Com Ed's position in that case with
11 regard to those costs and not, on Page 86, the
12 Commission's conclusion on that issue?

13 A Right, Page 86 is the introduction by Com
14 Ed.

15 MS. MUNSCH: Thank you, no further questions.

16 JUDGE HILLIARD: Com Ed.

17 MR. RATHNASWAMY: I do have some questions, your
18 Honor. John Ratnaswamy, Foley and Lardner, LLP, 321
19 North Clark Street, Suite 2800, Chicago Illinois,
20 60610 on behalf of Commonwealth Edison Company.

21

22

1 CROSS EXAMINATION

2 BY

3 MR. RATHNASWAMY:

4 Q Ms. Hathhorn, first of all, thank you for
5 coming up here, especially given our not terribly
6 good Chicago weather. On that last subject of the
7 Exelon Way severance, is it your understanding of the
8 order on Page 90, from the last case, that it was
9 approved in the Com Ed proposal?

10 A Yes.

11 Q The remainder of the questions I want to
12 ask you relate to incentive compensation with the
13 exception of, I hope, exactly one question about
14 Rider SMP.

15 Is it correct that you propose in your
16 testimony that certain incentive compensation program
17 costs incurred by Com Ed should be excluded from its
18 revenue requirement?

19 A Yes, that's correct.

20 Q And are you familiar with the term human
21 resources?

22 A What term?

1 Q Human resources.

2 A Oh, yes.

3 Q Are you an expert on the subject of human
4 resources?

5 A I'm an expert to the extent of being able
6 to review costs for purposes of approving or not
7 approving to a revenue requirement. I've never held
8 a position as a human resources person.

9 Q So in terms of whether it was prudent to
10 design an incentive compensation plan in a particular
11 way to attract or keep employees or motivate them,
12 that is beyond the scope of your expertise; is that
13 right?

14 A That's correct.

15 Q Did you review Mr. McDonald's direct
16 testimony on the subject of incentive compensation?

17 A Yes, I did.

18 Q And do you recall that he stated that Com
19 Ed has two -- basically two incentive compensation
20 programs, one is called the Annual Incentive Program
21 or AIP and the other is the Long-Term Incentive
22 Program or LTIP or LTIP?

1 A Yes, I recall that.

2 Q And is that consistent your understanding
3 of the program, that there are those two basic
4 programs?

5 A Yes.

6 Q From this point on, I think we would like
7 to focus only on the AIP or Annual Incentive Program.
8 Is it correct, and actually you may wish to look at
9 your direct testimony, Attachment B, Page 4, before I
10 ask the next question. Are you there?

11 A Yes.

12 Q Is it correct that the AIP has separate
13 components with separate criteria determining whether
14 and if so how much incentive compensation should be
15 paid under each specific component?

16 A Yes.

17 Q And you see there in Attachment B to Direct
18 Page 4, Column H, the amounts incurred in the test
19 year under the AIP's total cost goal, do you see
20 that?

21 A Yes, I see that.

22 Q And that's one of the components of the

1 AIP?

2 A Yes, it is.

3 Q Now, it is correct that one of your
4 proposed adjustments would remove from the
5 calculation of Com Ed's revenue requirement,
6 50 percent of the costs and expenses associated with
7 the amounts incurred in the test year under the AIP
8 total cost goal?

9 A For the AIP, I believe this page is for the
10 2006 amount and then there is also a pro forma AIP
11 amount for the same components.

12 Q Could I ask you to look at your rebuttal
13 Schedule 14.7, Page 3, please. And because you
14 mentioned, let me back up for a moment, Page 2 of
15 that same schedule. Page 2 is the one that relates
16 to the thing that you were just talking about there,
17 the pro forma adjustment; is that correct?

18 A That's correct.

19 Q And Page 3, Lines 1 through 15, is that the
20 calculation of your adjustment to disallow 50 percent
21 of the total cost goal component of the AIP?

22 A My AIP adjustment also disallows the amount

1 related to the net income goal. However, I think the
2 net income goal is only reflected in the company's
3 pro forma. So that would probably only be the amount
4 on Page 2 and not on Page 3.

5 Q Were you done with your answer?

6 A Yes.

7 Q All right. Now, did you testify in Com
8 Ed's last rate case, Docket 05-0597, which I think
9 everyone in the room has memorized now?

10 A Yes, I did.

11 Q And who was the staff's primary witness, if
12 you recall, on the subject of incentive compensation
13 in that case?

14 A I believe that was Theresa Ebring.

15 Q Is it okay if I use the term you were the
16 revenue requirement witness?

17 A I'll accept that, subject to check. I just
18 know I didn't do incentive comp.

19 Q Well, you were the witness who sponsored
20 the staff's rate base and revenue requirement
21 schedules; is that right?

22 A Okay.

1 Q Are you genuinely not sure?

2 A I think I'm not 100 percent sure, but I
3 know I was on the case.

4 Q Let me try this, then. Are you familiar
5 with staff's proposed adjustments to incentive
6 compensation in that case?

7 A Yes.

8 Q And at that time, is it correct that Com
9 Ed's AIP included the very same total cost goal that
10 is the subject of your testimony in this case as
11 well?

12 A Well, in preparing my testimony for this
13 case, I reviewed the order in the last docket and the
14 total cost component appears to be the same, but my
15 proposal to the Commission is not one that was set
16 forth in the last case.

17 Q I understand. In fact, staff proposed to
18 disallow 100 percent in the last case, right?

19 A That's correct.

20 Q And were you asked in the current case a
21 data request, Com Ed Staff Data Request 2.04, about
22 the outcome of that staff proposal in the last case?

1 A Yes.

2 Q And in fact, in your rebuttal, although you
3 did not quote the question, you quoted on Page 11,
4 Lines 248 to 257, your answer to that data request;
5 is that right?

6 A Yes, that's correct.

7 Q And so, I'm not sure if the quote uses the
8 word, but that data request is about the total cost
9 goal of the AIP; is that right?

10 A Right. The question refers to the
11 operating and maintenance costs, total maintenance
12 cost goal. But I understand they are the same thing.

13 Q And it's correct, isn't it, that as you
14 indicated on Page 11, the Commission, rather than
15 disallowing 100 percent, approved 100 percent of
16 those costs?

17 A That's correct.

18 Q How well do you recall the Commission's
19 findings in support of that conclusion?

20 A I generally know what they found, I have a
21 copy with me.

22 Q Would it be fair to say that the Commission

1 found that that goal benefited customers?

2 A In the last case, yes.

3 Q And would it be -- would it also be fair to
4 say the Commission expressly rejected the argument
5 that those costs should be disallowed on the theory
6 that they benefited shareholders?

7 A Yeah, they expressly rejected disallowing
8 the costs in total.

9 Q To what extent, if any, are you familiar
10 with the February 2008 order in the People's Gas and
11 North Shore Gas rate cases?

12 A Too much.

13 Q You were a witness in that case as well?

14 A Yes.

15 Q And in that case, who was the staff's main
16 witness on the subject of incentive compensation?

17 A Bonnie Pearce.

18 Q And you were the revenue requirement
19 witness?

20 A Yes, I was.

21 Q And so your schedules reflected in staff's
22 overall proposal her proposed adjustments to

1 incentive compensation?

2 A Yes.

3 Q If this is a fair way to speed it up, would
4 you agree that staff there also proposed complete
5 disallowance of incentive compensation criteria tied
6 to controlling O and M costs and the Commission
7 rejected that position and approved recovery of the
8 costs?

9 A That sounds like a fair summarization, yes.

10 Q Would you agree, in general, that the
11 Commission, in a number of orders, in discussing
12 incentive compensation has emphasized cost savings as
13 one of the grounds for approving an incentive
14 compensation program's costs being included in
15 revenue requirement?

16 A Right. Generally the Commission requires
17 that the company be able to show that the ratepayer
18 benefits and often the most tangible way that the
19 companies can show that is by lowering operating
20 costs.

21 Q Is it correct that your testimony doesn't
22 contain any analysis of the total compensation of Com

1 Ed employees? By that I mean base pay plus incentive
2 comp, plus whatever other fringe benefits there are?

3 A No, I didn't do that.

4 Q All right, here is my big SMP question.
5 Did you -- did you read Mr. Crumrine's surrebuttal
6 referring to your rebuttal testimony regarding
7 certain proposed language for the SMP rider?

8 A Yes, I did.

9 Q And in particular with regard to Pages 20
10 to 23 of his surrebuttal, where he proposes certain
11 language for the tariffs, is that language acceptable
12 to you?

13 A That is acceptable to staff, yes.

14 MR. RATHNASWAMY: No further questions, your
15 Honor.

16 MS. LUSSON: Can I ask one clarifying question?

17 JUDGE HILLIARD: Sure.

18 CROSS EXAMINATION

19 BY

20 MS. LUSSON:

21 Q Good afternoon, Ms. Hathhorn. To the
22 extent you just indicated that that clarification by

1 Mr. Crumrine was acceptable to you, is it not correct
2 that in light of all your recommendations as to how
3 to improve Rider SMP, some of which the Company's
4 adopted and some of which they did not, it is still
5 staff's position that Rider SMP is not a good idea
6 from a ratemaking perspective?

7 A I believe that's what staff witness Lazar
8 testifies to, yes.

9 Q And is that also your belief as an
10 accountant?

11 MR. FEELEY: I think you are going beyond the
12 scope of this witness' testimony. She talked about
13 the language in the tariff if the Commission were to
14 adopt it.

15 JUDGE HAYNES: Sustained.

16 MS. LUSSON: No further questions.

17 JUDGE HILLIARD: Redirect?

18 MR. FEELEY: Can I just have a second?

19 (Break taken.)

20 JUDGE HILLIARD: Do you have any questions.

21 MR. FEELEY: We have no redirect.

22 JUDGE HAYNES: Thank you.

1 (Witness excused.)

2 JUDGE HILLIARD: Mr. Griffin. Mr. Griffin,
3 would you raise your hand to be sworn, please.

4 (Witness sworn.)

5 THOMAS GRIFFIN,
6 called as a witness herein, having been first duly
7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY

10 MR. FEELEY:

11 Q Could you please state your name for the
12 record?

13 A My name is Thomas L. Griffin, I'm an
14 accountant in the accounting department of the
15 Financial Analysis Division of the Illinois Commerce
16 Commission.

17 Q Mr. Griffin, do you have before you a
18 document that's been marked for identification as ICC
19 Staff Exhibit 2.0 corrected and Schedules 2.1 through
20 2.8?

21 A Yes, I do.

22 Q And Mr. Griffin, do you have in front of

1 you a document that's been marked for identification
2 as ICC Staff Exhibit 15.0 corrected, which is a
3 corrected Rebuttal Testimony of Thomas L. Griffin and
4 Schedules 15.1 and 15.4?

5 A Yes.

6 MR. FEELEY: I note for the record that a 15.0
7 corrected was filed today on e-docket, it just had a
8 correction of one typo and the addition of corrected
9 on the cover page and in the header and we can point
10 out where that correction was.

11 BY MR. FEELEY:

12 Q Mr. Griffin were ICC Staff exhibits 2.0 and
13 15.0 and attached schedules prepared under your
14 direction, supervision or control?

15 A Yes, they were.

16 Q Do you have any additions, deletions or
17 corrections to make to either of those documents?

18 A No.

19 Q If I was to ask you today the same series
20 of questions set forth in those documents, would your
21 answers be the same as set therein?

22 A Yes, they would.

1 MR. FEELEY: At this time, staff would move to
2 admit into evidence, ICC Staff Exhibit 2.0, corrected
3 and Schedules 2.1 to 2.8 which were filed on e-docket
4 on February 15th, 2008 and which is the corrected
5 Direct Testimony of Thomas Griffin. And ICC Staff
6 Exhibit 15.0, corrected and schedules 15.1 through
7 15.4, the Corrected Rebuttal Testimony of Thomas L.
8 Griffin filed on e-docket today April 29th, 2008.

9 JUDGE HILLIARD: Are there any objections? No
10 objections, the exhibits outlined by counsel will be
11 admitted in the record and the attachments.

12 (Whereupon, ICC Staff
13 Exhibit Nos. 2.0 and 15.0 were
14 admitted into evidence as
15 of this date.)

16 MR. FEELEY: Mr. Griffin is available for cross
17 examination.

18 JUDGE HAYNES: Mr. Reddick, are you ready?

19 MR. REDDICK: Yes, your Honors, thank you.

20

21

22

1 CROSS EXAMINATION

2 BY

3 MR. REDDICK:

4 Q Mr. Griffin, my name is Conrad Reddick and
5 I represent IIEC in this proceeding. I would like to
6 talk to you a little bit about your discussion of Com
7 Ed's rate base and the adjustments thereto.

8 A Okay.

9 Q Would you agree with me that the principal
10 component, meaning the largest component, of the
11 utilities rate base is its net plant?

12 A Yes.

13 Q And when you compute net plant, is that
14 calculated by subtracting accumulated depreciation
15 from gross plant?

16 A That's the definition of net plant, yes.

17 Q Now, with respect to the rate base, as
18 opposed to net plant, what are the largest components
19 of the calculation of rate base, other than net
20 plant?

21 A Well, that is by far the large -- net plant
22 is the largest component that would be gross plant

1 less accumulated depreciation, that's the largest
2 component. Other components would be possibly
3 materials and supplies and so forth, there isn't
4 anything that is much comparable to that.

5 Q Would reference to Ms. Hathhorn's Schedule
6 1.3 refresh your recollection?

7 A I don't have that in front of me.

8 MR. REDDICK: I would be happy to supply it to
9 you.

10 MR. FEELEY: I've got a copy. You're looking at
11 Schedule 1.3.

12 MR. REDDICK: 1.3.

13 THE WITNESS: You're looking for the largest
14 component of rate base outside of net plant?

15 BY MR. REDDICK:

16 Q Yes.

17 A Well, the largest negative component would
18 be accumulated deferred income taxes.

19 Q And next largest after that?

20 A Non-pension post retirement obligations is
21 a negative component.

22 Q Okay. Now, with respect to adjustments to

1 the calculated net plant for the test year, would you
2 agree with me that the objective of pro forma
3 adjustments for post test year changes is to better
4 reflect the utilities' circumstances, that is the
5 rate base, rate of return, operating expenses, during
6 the period when rates will be in effect?

7 A Well, that's a hard question to answer in
8 context. The Commission has various test year rules
9 that apply to the components of a rate base for
10 ratemaking purposes, so I'm not sure what context you
11 are talking about.

12 Q I'm sorry, I didn't hear the last part of
13 your answer.

14 A The Commission has different test year
15 rules that apply to ratemaking and the rate base on
16 the various components of them, is that what you're
17 referring to, what the results would be of those
18 components?

19 Q No, actually I was at a much higher level
20 than that, I thought. I was simply asking you what
21 the objective of the test year rule and the rules for
22 pro forma adjustments would be. And I suggested to

1 you that it was to better match the data used for
2 ratemaking with the circumstances that exist at the
3 point in time when the rates would be in effect.

4 A I'm not sure I would categorize it that
5 way. I would think the objective is to develop a
6 rate base which would cover known and measurable
7 changes to the test year rate base and allow the
8 company to recover those known measurable changes
9 along with the test year components.

10 Q Would you agree that the failure to
11 accurately reflect the rate base, rate return,
12 operating expenses of the company, during the period
13 rates would be in effect, could lead to rates that
14 are not just and reasonable?

15 A Within the confines of the test year rules,
16 failure to include appropriate components would fail
17 to meet the objective, yes.

18 Q I'm sorry, again, I didn't hear the last
19 several words of your answer.

20 A The objective of the Commission, I guess
21 would be -- would not be met if the components
22 included in rate base and operating expenses did not

1 conform to the test year rules.

2 Q In your rebuttal testimony you discussed
3 the staff stipulation with Commonwealth Edison and I
4 would like to refer to Roman numeral 3.1 of that
5 stipulation.

6 A Of the stipulation?

7 Q Yes. Do you need a moment to look it over
8 or can we begin?

9 A Just one moment.

10 Q Am I correct that Section 3.1 of the
11 stipulation provides that Com Ed and staff are
12 deviating from their previous substantive provisions
13 on the issue in the stipulation, conditionally?

14 A Yes, I think so.

15 Q And specifically, is it true that each --
16 is it true that each stipulating party's agreement to
17 quote, waive, its right to pursue alternative
18 conclusions as advocated in testimony each has
19 submitted or otherwise, end quote, is, quote,
20 expressly limited to acceptance by the Commission of
21 the totality of the agreements set forth herein.

22 A Yes, that's what it says.

1 Q And does that provision further state that
2 if the Commission does not accept the stipulation in
3 its entirety and modified, then Com Ed, and staff,
4 quote, reserve their respective rights to continue to
5 advocate other positions?

6 A That is correct.

7 Q Now, does that mean that staff considers
8 the stipulated issue resolutions acceptable in the
9 context of the stipulation, but not otherwise?

10 A I believe that the staff considers the
11 provisions reasonable in the context of the
12 stipulation. Without the stipulation, each party
13 would have the ability to argue their original points
14 or other points.

15 Q And there is no assurance that the
16 Commission will accept the stipulation according to
17 its terms in its totality?

18 A That's correct.

19 Q And staff's previous position with respect
20 to the adjustment for accumulated depreciation was
21 what?

22 A You mean my direct testimony?

1 Q In your direct testimony.

2 A In my direct testimony, which was before I
3 heard from the Company in their rebuttal testimony,
4 my position was to bring the accumulated depreciation
5 forward to December 31st, 2007. I also indicated
6 that I would be looking at the rebuttal testimony of
7 the Company to see if they could give me any more
8 information on pro forma additions.

9 Q Okay, let's focus on the first half of your
10 response. Was it your objective in making that
11 adjustment to bring forward or to use Mr. Stahl's
12 characterization, carry forward the accumulated
13 depreciation to the same extent in time that the
14 plant additions were carried forward?

15 A Well, that's the affect it has. But the --
16 my reason for doing that is in their direct
17 testimony, I did not believe the Company was
18 following test year rules for historical test year.

19 And instead of bringing -- instead of
20 including known and measurable changes to their plant
21 and service, they were carrying forward the entire
22 component of pro forma plant and service. And,

1 therefore, under those circumstances, you know, I
2 felt that it would be reasonable to bring forward the
3 accumulated depreciation at the same time.

4 However, when the Company, in the
5 stipulation requirements or stipulation objectives,
6 what the Company has done is only include pro forma
7 plant additions, which are known and measurable under
8 the historical test year rules. And under those
9 circumstances, I think it's reasonable to apply what
10 the Commission has done in the past cases, in regards
11 to accumulating depreciation, which was to include
12 accumulated depreciation effects of the pro forma
13 additions to plant. But they did not carry forward
14 the embedded plant accumulated depreciation.

15 (Change of reporters.)

16

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1 (Change of reporters.)

2 Q And I understand your answer and that's
3 fine but I want to ask you about the effect of that
4 position.

5 If we go to the date, and I believe
6 according to your stipulation it's June 30, 2008, to
7 which the plant additions are carried forward and
8 your associated depreciation for those plant
9 additions is carried forward, at that point in time
10 is it true that you will have augmented the test year
11 rate base by plant additions from the end of 2006
12 through June of 2008, correct?

13 A Okay.

14 Q With the depreciation adjustments
15 previously noted.

16 At the same time, you will not have
17 augmented the accumulated depreciation from the end
18 of the test year 2006 through June of 2008; is that
19 also true?

20 A That's true. That would -- you're talking
21 about again the embedded plant services as of 2006
22 and accumulated depreciation carried forward and the

1 effect...

2 Q Okay. If one were to look at ComEd's books
3 as of June 2008 and calculate the net plant, what
4 would that calculation entail?

5 A What would it entail?

6 Q Uh-huh.

7 A It would entail the plant, the gross plant
8 balance as of June 30th, 2008, and the accumulated
9 depreciation balances as of June 30, 2008. It would
10 be that plant balance.

11 Q And that net plant as we discussed earlier
12 is the largest component of the rate base?

13 A I don't believe that that would be a
14 component of the rate base. I think the rate base
15 under historical test year rules would only include
16 the embedded plant as accumulated depreciation
17 embedded plant as December 31, 2008, plus the
18 accumulated depreciation of the pro forma plant
19 additions after that period.

20 Q And you base that on the Commission's prior
21 orders?

22 A That's my understanding of the rules, and

1 it's -- the Commission's prior order, I believe, has
2 sustained that.

3 Q I believe you have in your testimony a
4 quotation of the Commission's pro forma rule. At the
5 moment, I don't recall whether it's in your direct
6 or --

7 A It's in my direct testimony, rule 287.40, I
8 think.

9 Q Yes.

10 A It's in my direct testimony. I have a copy
11 of the rule here. Let me see if I can find it in my
12 direct testimony.

13 JUDGE HAYNES: Page 6.

14 THE WITNESS: Thank you. Beginning on line
15 101.

16 MR. REDDICK: Q Thank you.

17 Would you read the second sentence of
18 the pro forma rule?

19 A These adjustments shall reflect changes
20 affecting the ratepayers and plant investment,
21 operating revenues, expenses, and costs of capital
22 where such changes occur during the selected

1 historical test year or are reasonably certain to
2 occur subsequent to the historical test year within
3 12 months after the filing date of the tariffs and
4 where the amounts of the changes are determinable.

5 Q Let's focus on the first part of that.

6 If we are looking to reflect known and
7 measurable changes in plant investment over a period
8 of time, can we accurately calculate the change in
9 plant investment by taking into account only plant
10 additions?

11 A Well, yes, I believe that's the
12 interpretation that the Commission has followed in
13 the past, that plant investments for the purposes of
14 this rule includes the plant investments and the
15 associated accounts such as accumulated depreciation
16 and income taxes and depreciation expense.

17 Q Would you use that calculation of plant
18 investment in any other context?

19 A By any other context, you mean if I were to
20 look at a balance sheet at the end of the test year.

21 Q If you were to look at the balance sheet at
22 any point in time, would that be your calculation of

1 plant investment?

2 A Only in the context of a rate case with an
3 historical test year.

4 Q Using the Commission's -- as you described
5 the Commission's interpretation of this particular
6 rule?

7 A Yes, sir.

8 Q To -- and you do acknowledge then that the
9 calculation of plant investment pursuant to your
10 interpretation of this rule is distinct from the
11 calculation of plant investment in other contexts?

12 A In some other context. I'd probably have
13 to refer to a certain context you're discussing.
14 There's several contexts it could be.

15 Q Look again at staff exhibit -- is it
16 exhibit or schedule? Staff schedule Exhibit 1,
17 schedule 1.3.

18 A I have to find --

19 Q Ms. Hathhorn's calculation of net plant.

20 JUDGE HILLIARD: That's the line you just had a
21 minute --

22 THE WITNESS: Unfortunately I had to set is it

1 aside.

2 MR. REDDICK: Q I have another.

3 A It's in here. What was your question,

4 please.

5 Q I'll change the question since you now have

6 the paper.

7 Is the calculation of net plant there

8 the calculation that you're used to seeing in almost

9 every other context?

10 A For a rate base?

11 Q Net plant.

12 A Well, net plant is the gross plant less the

13 accumulated provision for depreciation. That is the

14 context I'm using to seeing it in, yes.

15 Q Yes. And -- okay.

16 You have referred in one of our

17 earlier Q and As to the Commission's test year rules

18 and the pro forma rule. I'd like to turn now to the

19 test year rules, and I want you to think about the

20 future test year.

21 A Yes.

22 Q The Commission does permit future test

1 years?

2 A Yes, it does.

3 Q And consider this scenario. Commonwealth

4 Edison proposed a future test year that ended

5 June 30, 2008.

6 Understand the scenario there?

7 A Yes.

8 Q In that situation, how would ComEd's net

9 plant be calculated?

10 A I believe that in a future -- in the

11 context of a future test year, they would be able to

12 bring their entire rate base up to a forecasted level

13 for June 30th, 2008.

14 Q So it's your testimony that the Commission

15 interprets net plant differently depending on whether

16 there's a historical test year or future test year?

17 A I don't believe they interpret net plant

18 differently. I believe they interpret the pro forma

19 additions to rate base differently.

20 Q Does the future test year allow pro forma

21 adjustments to rate base?

22 A Yes, under a future test year they're

1 forecasted in amounts.

2 Q Could you look at 287.40 again?

3 A Yes.

4 Q What's the caption of that section of the
5 Commission's rules?

6 A Pro forma adjustments to historical test
7 year data.

8 Q Would you read the first sentence of that
9 rule?

10 A A utility may propose pro forma
11 adjustments, estimated, or calculated adjustments
12 made in the same context and format in which the
13 affected information was provided to the selected
14 historical test year for all known and measurable
15 changes and operating results of the test year.

16 Q Is it still your position that the pro
17 forma rule applies to future test years?

18 MR. FEELEY: I don't know if he ever testified
19 to that.

20 THE WITNESS: This is a pro forma rule for
21 historical test year. It doesn't apply to future
22 test year.

1 MR. REDDICK: Q Okay. If I misheard your
2 testimony earlier, I apologize.

3 The last area I'd like to discuss with
4 you has to do with the operation of staff's agreement
5 pursuant to the stipulation. I believe you testified
6 that staff is -- considers itself bound by the
7 stipulated resolutions only if the Commission
8 accepted the stipulation in totality. Otherwise
9 staff is free to advocate its original position.

10 How will staff know whether the
11 Commission has accepted its stipulation?

12 A I don't think we'll know until an order is
13 issued.

14 Q And at that point is there anything left to
15 advocate?

16 A Within the context of this docket, I'm not
17 sure there will be, no.

18 MR. REDDICK: Thank you. I have no further
19 questions.

20 JUDGE HILLIARD: Are you going to waive
21 questions.

22 MR. BERNET: I just have a couple questions.

1 THE WITNESS: Could you turn on your
2 microphone.

3 CROSS EXAMINATION

4 BY

5 MR. BERNET:

6 Q Good afternoon, Mr. Griffin. My name is
7 Richard Bernet. I'm counsel for Commonwealth Edison.

8 You're familiar with the O and M
9 aspects of the revenue requirement?

10 A Yes.

11 Q You would expect in this case if -- when
12 the Commission issues its order it will approve O and
13 M expenses for the test year, which is 2006?

14 A Yes.

15 Q And that order would come out in 2008?

16 A Yes.

17 Q And would reflect test year O and M
18 expenses of 2006, right?

19 A Yes, adjusted for pro forma changes, yes.

20 Q And you would not expect O and M expenses
21 in 2007 that ComEd incurs to be the same as the
22 O and M expenses ComEd incurred in 2006, would you?

1 A I imagine they would be different.

2 Q That's the same with respect to 2008, too,

3 isn't it?

4 A Well, I'd expect the level of every expense

5 is not going to be same from year to year. Is that

6 your question?

7 Q Yes.

8 A Yes, that's correct.

9 MR. BERNET: Nothing further.

10 JUDGE HILLIARD: Redirect.

11 MR. FEELEY: Can I have a couple minutes,

12 please.

13 (Whereupon, a short break was

14 taken.)

15 MR. FEELEY: Staff has no redirect.

16 JUDGE HAYNES: Thank you.

17 JUDGE HILLIARD: Do you have something you

18 wanted to do before the close of today.

19 MR. FEELEY: Yeah, a few things.

20 JUDGE HILLIARD: Mr. Griffin is the last

21 witness, in case anybody is holding their breath to

22 see who is coming back for today.

1 MR. FEELEY: At this time I'd like to mark as a
2 Staff Cross Exhibit No. 2 the Department of Energy's
3 response to staff data request JMO 13.01 and 13.02.
4 In lieu of cross-examination of Dr. Swan, the
5 department of education -- Department of Energy
6 indicated that they would have no objection to this
7 data request being admitted into evidence.

8 (Whereupon, ICC Staff Exhibit
9 No. Cross 2 was marked for
10 identification.)

11 JUDGE HAYNES: Is there any other objections to
12 admitting this document?

13 Hearing none, Staff Cross Exhibit 2 is
14 admitted.

15 (Whereupon, ICC Staff
16 Exhibit No. Cross 2 was
17 admitted into evidence as
18 of this date.)

19 MR. FEELEY: Also next regarding -- I'd like to
20 mark at this time ICC Staff Cross Exhibit No. 3.
21 This is ComEd's response to staff data request DLH
22 29.01 and 29.02. In lieu of crossing Mr. Waden,

1 ComEd had no objection to staff offering into
2 evidence their response to DLH 29.01 and 29.02.

3 (Whereupon, ICC Staff Exhibit
4 No. Cross 3 was marked for
5 identification.)

6 JUDGE HAYNES: Is there any other objections?
7 Hearing none, staff Cross Exhibit 3 is admitted.

8 (Whereupon, ICC Staff
9 Exhibit No. Cross 3 was
10 admitted into evidence as
11 of this date.)

12 MR. FEELEY: Those are the only items that I
13 have.

14 JUDGE HAYNES: Is there anything else? Okay.
15 We're continued until tomorrow at 9:00 a.m.

16 (Whereupon, the above matter was
17 continued to April 30, 2008, at
18 9:00 a.m.)

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